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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 WESTERN DIVISION

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 vs.

18 ONE WHITE CRYSTAL-COVERED
“BAD TOUR” GLOVE AND OTHER
19 MICHAEL JACKSON
MEMORABILIA; REAL PROPERTY
20 LOCATED ON SWEETWATER
MESA ROAD IN MALIBU,
21 CALIFORNIA; ONE 2011 FERRARI
599 GTO,

22 Defendants.

CASE NO. 2:11-03582-GW-SS

Hon. George H. Wu

CLAIMANTS’ RESPONSE TO THE
GOVERNMENT’S STATEMENT OF
FACTS SUPPORTING PROBABLE
CAUSE

Hearing Date: August 19, 2013
Time: 8:30 a.m.
Place: Courtroom No. 10

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SEPARATE STATEMENT RESPONSE

Claimants have set forth responses to the government's facts, below.

Claimants' responses to the government's separate statement, however, do not purport to address the accuracy of the government's alleged facts. Instead, Claimants' responses address whether the government possessed the information at the time it instituted the action and whether, at that time, its reliance thereon supported probable cause for the forfeiture of the Defendant Assets.

Where a Fact is disputed, Claimants do not necessarily dispute the accuracy or truth of the alleged fact, but rather contend that the government either (i) did not actually possess the alleged fact or (ii) that the government did not have reliable evidence to support a belief in the fact at the time it instituted the forfeiture proceeding, which is necessary to support probable cause.

Where Claimants identify a fact as Immaterial, Claimants concede for purposes of this motion only that the government possessed the information, but denies that the information supports probable cause. Claimants are not accepting the government's characterization of the evidence, only that the government possessed the information and that they may rely on it.

I. CLAIMANTS' RESPONSES TO THE GOVERNMENT'S ALLEGED FACTS IN SUPPORT OF PROBABLE CAUSE

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>1. Teodoro Nguema Obiang Mangue (Nguema) is the oldest son of Brigadier General Teodoro Nguema Obiang Mbasogo, the President of Equatorial Guinea (EG).</p> <p><u>Government's Evidentiary Support:</u></p>	<p><u>Undisputed But Immaterial.</u></p> <p>This alleged fact does not support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in,</p>

Government's Alleged Supporting Fact	Claimants' Response
<p>1 Manzanares Decl., Ex. 2¹ at Senate-PSI- 2 124607; Ex. 3² at DOJ_169</p> <p>4 Graf Decl. Ex. 13³ at DOJ_843; Ex. 16⁴ at 5 DOJ_1051</p>	<p>7 the specified unlawful activity - 8 violations of foreign law - giving rise to 9 forfeiture under the statute invoked, nor 10 that Claimant engaged in specified 11 unlawful activity in the first instance 12 that in fact generated criminal proceeds 13 from which the Defendant Assets could 14 be derived.</p>
<p>15 2. President Obiang, Nguema's father, 16 assumed the presidency in 1979 after 17 launching a coup against his uncle 18 Francisco Macias Nguema, who was 19 executed soon thereafter.</p>	<p>20 <u>Undisputed But Immaterial.</u> 21 Undisputed that President Obiang 22 became president of E.G. in 1979.</p>
<p>23 <u>Government's Evidentiary Support:</u></p> <p>24 Manzanares Decl., Ex. 2⁵ at Senate-PSI- 25 124606; Ex. 3⁶ at DOJ_168</p>	<p>26 However, neither this alleged fact, nor 27 the evidence cited, support the 28 government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>29 3. Nguema has served in his father's</p>	<p>30 <u>Disputed But Immaterial.</u></p>

24 ¹ See Manzanares Decl., ¶ 4.

25 ² See Manzanares Decl., ¶ 5.

26 ³ See Graf Decl., ¶ 19.

27 ⁴ See Graf Decl., ¶ 22.

28 ⁵ See Manzanares Decl., ¶ 4.

⁶ See Manzanares Decl., ¶ 5.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>1 cabinet since 1998 (when he was 29 years 2 old), holding various portfolios within the 3 regime, including Forestry, Infrastructure, 4 Fisheries and Agriculture.</p> <p>5 <u>Government's Evidentiary Support:</u></p> <p>6 Manzanares Decl., Ex. 2⁷ at Senate-PSI- 7 124607; Ex. 3⁸ at DOJ_171;</p> <p>8 Graf Decl. Ex. 16⁹ at DOJ_1051; Ex. 27¹⁰ 9 at DOJ_840</p>	<p>10 Undisputed to the extent Claimant has 11 served in the Minister of Agriculture 12 and Forestry since approximately 1998 13 and became Minister in approximately 14 2001. However, disputed to the extent 15 the government has cited no evidence 16 that supports the alleged supporting fact 17 that Claimant held “various portfolios 18 within the regime, including . . . 19 Infrastructure [and] Fisheries. . . .”</p>
<p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>4. As a public official in EG, Nguema's legitimate salary is approximately \$6,799 per month, or less than \$100,000 per year</p>	<p>20 Further, neither this alleged fact, nor 21 the evidence cited, support the 22 government's burden to show it had 23 probable cause to believe the specific 24 Defendant Assets were forfeitable as 25 proceeds of, or property involved in, 26 the specified unlawful activity – 27 violations of foreign law – giving rise 28 to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
	<p><u>Undisputed But Immaterial.</u></p> <p>Claimant does not dispute that the government possessed the cited documents at the time the original complaint was filed and that the</p>

⁷ See Manzanares Decl., ¶ 4.

⁸ See Manzanares Decl., ¶ 5.

⁹ See Graf Decl., ¶ 22.

¹⁰ See Graf Decl., ¶ 34.

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 2¹¹ at SENATE-PSI-124607; Ex. 4¹² at DOJ_397</p>	<p>documents state that Claimant's salary as a government official was reportedly less than \$100,000.</p> <p>However, Claimants object to the government's characterization of this evidence to the extent the government alleges this represents the entirety of his earnings. Significantly, the government fails to acknowledge that Claimant had other undisputed sources of substantial, legitimate income, including, for example, his timber concessions. (See Graf Ex. 15 at DOJ_0000586).</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>

NGUEMA MISAPPROPRIATED PUBLIC FUNDS THROUGH GENERAL WORK, S.A. (GW), AND EUROPEAN BANK ACCOUNTS

5. General Work, S.A., (GW), an

Undisputed But Immaterial.

¹¹ See Manzanares Decl., ¶ 4.

¹² See Manzanares Decl., ¶ 6.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>1 infrastructure construction firm, has been 2 active in EG since 2003 3 4 <u>Government's Evidentiary Support:</u> 5 Manzanares Decl., Ex. 24¹³ at DOJ_317; 6 Ex. 25A¹⁴ at DOJ_3856-3858</p>	<p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>12 6. While Nguema was EG's 13 Infrastructure Minister, the EG 14 Government awarded GW several large- 15 scale government infrastructure projects 16 <u>Government's Evidentiary Support:</u> 17 Manzanares Decl., Ex. 24¹⁵ at DOJ_317; 18 Ex. 25A¹⁶ at DOJ_3856-3858</p>	<p><u>Disputed But Immaterial.</u> The government has cited no evidence for the alleged fact that Claimant served as "EG's Infrastructure Minister," nor the dates during which such service allegedly occurred that would correspond with the GW contract awards. Moreover, the Government's factual allegations regarding GW are not based on reliable evidence. <u>See</u> GW Section of Claimants' Supplemental Brief at 4-7 and Reply Memorandum at 13-16. Further, neither this alleged fact, nor</p>

25 ¹³ *See* Manzanares Decl., ¶ 28.
26 ¹⁴ *See* Manzanares Decl., ¶ 30.
27 ¹⁵ *See* Manzanares Decl., ¶ 28.
28 ¹⁶ *See* Manzanares Decl., ¶ 30.

Government's Alleged Supporting Fact	Claimants' Response
	the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<p>7. In 2009, Italian law enforcement authorities, including officers of the Guardia di Finanza (Italy), Italy's financial police with specialized training in investigating financial crimes, including money laundering, informed the United States that they believed that Nguema controlled a network of European bank accounts (European Accounts) that were opened by GW's director Igor Celotti.</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 24¹⁷ at DOJ_317; Ex. 25A¹⁸ at DOJ_3856-3858; Ex. 26¹⁹ at DOJ_415; Ex. 27²⁰ at DOJ_420</p>	<p><u>Undisputed that the cited document makes this statement.</u></p> <p><u>Disputed that this fact is based on reliable evidence.</u></p> <p><u>Immaterial.</u></p> <p>The Government's factual allegations regarding GW are not based on reliable evidence, and the government has not accurately characterized the information it received from the GdF. <u>See</u> GW Section of Claimants' Supplemental Brief at 4-7 and Reply Memorandum at 13-16.</p> <p>Further, neither this alleged fact, nor</p>

¹⁷ See Manzanares Decl., ¶ 28.

¹⁸ See Manzanares Decl., ¶ 30.

¹⁹ See Manzanares Decl., ¶ 31.

²⁰ See Manzanares Decl., ¶ 32.

Government's Alleged Supporting Fact	Claimants' Response
	<p>the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Significantly, the alleged bank accounts are not alleged to have been used in the acquisition of, or otherwise connected to, the specific Defendant Assets the government seeks to forfeit.</p>
<p>8. According to Italy, these European Accounts were “funded with government revenues stolen by [President Obiang] and [Nguema].”</p>	<p><u>Undisputed that the cited document makes this statement.</u></p> <p><u>Disputed that this fact is based on reliable evidence.</u></p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 26²¹ at DOJ_415; Ex. 27²² at DOJ_419-420</p>	<p><u>Immaterial.</u></p> <p>The Government's factual allegations regarding GW are not based on reliable evidence, and the government has not accurately characterized the information it received from the GdF. See GW Section of Claimants'</p>

²¹ See Manzanares Decl., ¶ 31.

²² See Manzanares Decl., ¶ 32.

1 Government's Alleged Supporting Fact	Claimants' Response
	<p data-bbox="943 266 1491 344">Supplemental Brief at 4-7 and Reply Memorandum at 13-16.</p> <p data-bbox="943 397 1547 988">Further, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p data-bbox="943 1041 1547 1467">Significantly, the alleged European bank accounts are not alleged to have been used in the acquisition of, or otherwise connected to, the specific Defendant Assets the government seeks to forfeit. Further, there is no evidence to support the additional claim that those accounts were “funded with government revenues stolen by [President Obiang] and [Nguema].”²³</p>

²³ Not only did the GdF fail to identify any amount of money in these accounts, but Exhibit 27 does not identify a single payment or kickback to Claimant or anyone else. Thus, there is no basis to assume that these accounts contained the proceeds of any illegal activity, let alone the proceeds of foreign corruption. Rather, Exhibit 27 simply identifies a number of companies in which Celotti owned shares, which were allegedly taken over by the “Obiang family” after his death. (Ex. 27 at 420.) The government cites no reliable evidentiary support for this alleged takeover, nor has it (footnote continued)

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>9. GW was originally formed by two Italian nationals Giulio Cistaro and Giuseppe Vona in 2001 and managed by Vona, Andrew Mannarino and Igor Celotti.</p> <p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex.24²⁴ at DOJ_317; Ex. 25A²⁵ at DOJ_3855; Ex. 27²⁶ at DOJ_419</p>	<p><u>Undisputed But Immaterial.</u></p> <p>The government mischaracterizes the evidence, which merely lists these individuals as co-CEOs.</p> <p>Moreover, the Government's factual allegations regarding GW are not based on reliable evidence. <u>See</u> GW Section of Claimants' Supplemental Brief at 4-7 and Reply Memorandum at 13-16.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>

ever even contended that Claimant violated EG law by allegedly assuming 45% control of GW after Celotti's death. Further, the newspaper report and the uncorroborated testimony of two unidentified businessmen are conclusory and lack support for their allegations. Moreover, even if their claims were credible, there is no indication that any funds from the alleged control of GW in 2007 were used to acquire the Defendant Assets.

²⁴ *See* Manzanares Decl., ¶ 28.

²⁵ *See* Manzanares Decl., ¶ 30.

²⁶ *See* Manzanares Decl., ¶ 32.

Government's Alleged Supporting Fact	Claimants' Response
<p>10. Because of Celotti's close relationship to President Obiang, GW was awarded major government infrastructure contracts in EG beginning in the early 2000s</p>	<p><u>Disputed But Immaterial.</u></p> <p>Undisputed that GW was awarded contracts in E.G., but disputed that the cited documents state that GW was awarded these contracts solely because of Celotti's relationship with President Obiang.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex.24²⁷ at DOJ_317; Ex. 25A²⁸ at DOJ_3856-3858</p>	<p>Moreover, the Government's factual allegations regarding GW are not based on reliable evidence. <u>See</u> GW Section of Claimants' Supplemental Brief at 4-7 and Reply Memorandum at 13-16.</p> <p>Further, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>11. In 2009, Italy informed the United States that it had identified a network of bank accounts in Switzerland, Italy, Austria, Spain, Monte Carlo, Dubai, San</p>	<p><u>Undisputed But Immaterial.</u></p> <p>Undisputed that the cited document</p>

²⁷ See Manzanares Decl., ¶ 28.

²⁸ See Manzanares Decl., ¶ 30.

Government's Alleged Supporting Fact	Claimants' Response
<p>1 Marino and Luxembourg controlled by 2 Nguema and his father through several 3 off-shore shell companies created by 4 Celotti.</p>	<p>makes this statement.</p>
<p>5 Government's Evidentiary Support: 6 7 Manzanares Decl., Ex. 24²⁹ at DOJ_317; 8 Ex. 25A³⁰ at DOJ-3909-3912; Ex. 26³¹ at 9 DOJ_415; Ex. 27³² at DOJ_419-420</p>	<p>The Government's factual allegations regarding GW are not based on reliable evidence. <u>See</u> GW Section of Claimants' Supplemental Brief at 4-7 and Reply Memorandum at 13-16.</p>
	<p>Further, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Significantly, the alleged European bank accounts are not alleged to have been used in the acquisition of, or otherwise connected to, the specific Defendant Assets the government seeks to forfeit. Further, there is no evidence to support the additional claim that those accounts were “funded with government revenues stolen by</p>

25 ²⁹ *See* Manzanares Decl., ¶ 23.

26 ³⁰ *See* Manzanares Decl., ¶ 30.

27 ³¹ *See* Manzanares Decl., ¶ 31.

28 ³² *See* Manzanares Decl., ¶ 32.

Government's Alleged Supporting Fact	Claimants' Response
	[President Obiang] and [Nguema].” See n.23.
12. After Celotti died in EG in 2007, Italy conducted an extensive investigation into GW and Celotti's financial affairs. In connection with this investigation, Italy interviewed former GW employees and associates. In addition, they performed a search of Celotti's residence in Italy, and obtained Celotti's financial and banking records.	<p>Disputed But Immaterial.</p> <p>This alleged fact does not accurately reflect the cited evidence, which does not state that they interviewed former GW employees and associates.</p>
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 24³³ at DOJ_317; Ex. 27³⁴ at DOJ_419-420</p>	<p>The Government's factual allegations regarding GW are not based on reliable evidence. <u>See</u> GW Section of Claimants' Supplemental Brief at 4-7 and Reply Memorandum at 13-16.</p>
	<p>Further, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
13. Cistaro and Vona informed Italy that Nguema's family fraudulently assumed control of GW after Celotti's	<p>Disputed But Immaterial.</p> <p>The report of investigation states that</p>

³³ See Manzanares Decl., ¶ 28.

³⁴ See Manzanares Decl., ¶ 32.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
death in 2007	this information came from unidentified individuals.
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 27³⁵ at DOJ_419</p>	<p>The Government's factual allegations regarding GW are not based on reliable evidence. Moreover, the government has not accurately characterized the information it received from the GdF. <u>See</u> GW Section of Claimants' Supplemental Brief at 4-7 and Reply Memorandum at 13-16.</p> <p>Further, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>14. According to Italy, based upon their investigation, including an analysis of Celotti's financial and banking records, the network of bank accounts controlled by Nguema and President Obiang possess the "markers of money laundering"</p> <p>Government's Evidentiary Support:</p>	<p><u>Undisputed But Immaterial.</u></p> <p>Undisputed that the cited document makes this statement and attributes it to the Italians, but the evidence is silent as to what those alleged "markers" were, or what the basis was for that conclusion by the Italians.</p>

³⁵ *See* Manzanares Decl., ¶ 32.

Government's Alleged Supporting Fact	Claimants' Response
<p>1 Manzanares Decl., Ex. 26³⁶ at DOJ_415; 2 Ex. 27³⁷ at DOJ_420</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>The Government's factual allegations regarding GW are not based on reliable evidence. Moreover, the government has not accurately characterized the information it received from the GdF. <u>See</u> GW Section of Claimants' Supplemental Brief at 4-7 and Reply Memorandum at 13-16.</p> <p>Further, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Significantly, the alleged European bank accounts are not alleged to have been used in the acquisition of, or otherwise connected to, the specific Defendant Assets the government seeks to forfeit. Further, there is no evidence to support the additional claim that those accounts were "funded with government revenues stolen by [President Obiang] and [Nguema]."</p>

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27³⁶ See Manzanares Decl., ¶ 31.

28³⁷ See Manzanares Decl., ¶ 32.

Government's Alleged Supporting Fact	Claimants' Response
15. Celotti opened these bank accounts in the names of 22 different shell companies	<p>2 See n.23.</p>
<p>3</p> <p>4</p> <p>5</p> <p>6 Government's Evidentiary Support:</p> <p>7 Manzanares Decl., Ex. 24³⁸ at DOJ_318; Ex. 25A³⁹ at DOJ_3892-3905</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>3 Disputed But Immaterial.</p> <p>4 The cited evidence does not support the 5 alleged fact. The documents do not 6 state that Celotti opened bank accounts 7 in the names of the companies listed in 8 the documents.</p> <p>9 The Government's factual allegations 10 regarding GW are not based on reliable 11 evidence. Moreover, the government 12 has not accurately characterized the 13 information it received from the GdF. 14 <u>See GW Section of Claimants'</u> 15 <u>Supplemental Brief at 4-7 and Reply</u> 16 <u>Memorandum at 13-16.</u></p> <p>17 Further, neither this alleged fact, nor 18 the evidence cited, support the 19 government's burden to show it had 20 probable cause to believe the specific 21 Defendant Assets were forfeitable as 22 proceeds of, or property involved in, 23 the specified unlawful activity – 24 violations of foreign law – giving rise 25 to forfeiture under the statute invoked, 26 nor that Claimant engaged in specified 27 unlawful activity in the first instance 28 that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>

26 ³⁸ See Manzanares Decl., ¶ 28.

27 ³⁹ See Manzanares Decl., ¶ 30.

Government's Alleged Supporting Fact	Claimants' Response
	Significantly, the alleged European bank accounts are not alleged to have been used in the acquisition of, or otherwise connected to, the specific Defendant Assets the government seeks to forfeit. Further, there is no evidence to support the additional claim that those accounts were “funded with government revenues stolen by [President Obiang] and [Nguema].” <u>See</u> n.23.
<p>16. These shell companies were formed using the names of nearly 20 different nominees</p> <p>Government's Evidentiary Support:</p> <p>15 Manzanares Decl., Ex. 24⁴⁰ at DOJ_318</p>	<p>Disputed But Immaterial.</p> <p>The cited evidence does not support the alleged fact. The documents do not state that the companies listed in the document were formed by nearly 20 different nominees.</p> <p>The Government's factual allegations regarding GW are not based on reliable evidence. Moreover, the government has not accurately characterized the information it received from the GdF. <u>See</u> GW Section of Claimants' Supplemental Brief at 4-7 and Reply Memorandum at 13-16.</p> <p>Further, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in,</p>

27 ⁴⁰ *See* Manzanares Decl., ¶ 28.
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Government's Alleged Supporting Fact	Claimants' Response
		<p>the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Significantly, the alleged European bank accounts are not alleged to have been used in the acquisition of, or otherwise connected to, the specific Defendant Assets the government seeks to forfeit. Further, there is no evidence to support the additional claim that those accounts were “funded with government revenues stolen by [President Obiang] and [Nguema].” <u>See</u> n.23.</p> <p>17. Based upon its investigation, Italy informed the United States that it believed that 45 percent of the revenue earned by GW in EG was kicked-back to Nguema, who was EG's Infrastructure Minister.</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 24⁴¹ at DOJ_317</p> <p>Disputed.</p> <p>The Government's factual allegations regarding GW are not based on reliable evidence. Moreover, the government has not accurately characterized the information it received from the GdF. <u>See</u> GW Section of Claimants' Supplemental Brief at 4-7 and Reply Memorandum at 13-16.</p> <p>The actual report of investigation simply reads: “GDF <i>speculates</i> that OBIANG received forty-five percent of</p>

⁴¹ See Manzanares Decl., ¶ 28.

Government's Alleged Supporting Fact	Claimants' Response
	<p>all general contracting projects which were preformed [sic] by GW," (Ex. 24 at DOJ_000317 (emphasis added).) and no support for the payment of a "kickback" is found in the underlying evidence. <u>See</u> n.23.</p> <p>Further, the government has cited no evidence for the alleged fact that Claimant served as "EG's Infrastructure Minister," nor the dates during which such service allegedly occurred that would correspond with the GW allegations.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
18. Celotti opened these European Accounts for Nguema in 2006, the same year Nguema acquired his \$30 million Malibu estate (Sweetwater)	<p><u>Disputed But Immaterial.</u></p> <p>The cited evidence does not support the alleged fact. The document does not state that Celotti opened bank accounts in the names of the companies listed in</p>

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 24⁴² at DOJ_317</p>	<p>the document. Although the document states that “Celotti had over twenty-two sub-corporations which were formed established in 2006,” the document is silent as to any alleged bank accounts.</p> <p>The Government’s factual allegations regarding GW are not based on reliable evidence. Moreover, the government has not accurately characterized the information it received from the GdF. <u>See</u> GW Section of Claimants’ Supplemental Brief at 4-7 and Reply Memorandum at 13-16.</p> <p>Further, neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Significantly, the alleged European bank accounts are not alleged to have been used in the acquisition of, or otherwise connected to, the specific Defendant Assets the government seeks</p>

⁴² *See* Manzanares Decl., ¶ 28.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
	to forfeit.
<p>19. Further underscoring the nexus 2 between Sweetwater and GW is that fact 3 that when Nguema was negotiating the 4 purchase of Sweetwater in 2006, he sent 5 and received faxes regarding this real 6 estate transaction from Celotti's office in 7 EG. For instance, in or around April 2, 8 2006, Nguema signed and faxed a copy of 9 the Residential Lease After Sale 10 pertaining to the purchase of Sweetwater 11 to George Nagler, Nguema's California 12 real estate lawyer, from a fax number in 13 EG. The faxed document indicates at the 14 top that this number belongs to "IGOR 15 CELOTTI."</p>	<p><u>Undisputed But Immaterial.</u> 16 Undisputed to the extent that Exhibit 57 17 contains faxed documents pertaining to 18 the Sweetwater Property that contain 19 Nguema's signature and bear stamps 20 with the names of Igor Coletti and 21 George Nagler. 22 23 However, neither this alleged fact, nor 24 the evidence cited, support the 25 government's burden to show it had 26 probable cause to believe the specific 27 Defendant Assets were forfeitable as 28 proceeds of, or property involved in, 29 the specified unlawful activity – 30 violations of foreign law – giving rise 31 to forfeiture under the statute invoked, 32 nor that Claimant engaged in specified 33 unlawful activity in the first instance 34 that in fact generated criminal proceeds 35 from which the Defendant Assets could 36 be derived.</p>
<p><u>Government's Evidentiary Support:</u> 16 Manzanares Decl., Ex. 57⁴³ at Senate-PSI- 17 93971-93974, 94047, 97840</p>	<p>Significantly, the only source of alleged 16 funds the government's evidence could 17 possibly suggest Claimant may have 18 derived through GW could not have 19 been realized until 2007 at the 20 earliest—after the purchase of the 21 defendant real property.⁴⁴</p>

26 ⁴³ See Manzanares Decl., ¶ 62.

27 ⁴⁴ As discussed in footnote 23, the only alleged conduct of Claimant relating to
28 GW in the government's documentary evidence is the allegation that Celotti's
(footnote continued)

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>20. Nguema also faxed a copy of the Addendum to the Residential Lease After Sale pertaining to the purchase of Sweetwater to Nagler from Celotti's number. Again, the faxed document indicates at the top that this number belongs to "IGOR CELOTTI."</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 57⁴⁵ at Senate-PSI-93976</p>	<p><u>Undisputed But Immaterial.</u></p> <p>Undisputed to the extent that Exhibit 57 contains faxed documents pertaining to the Sweetwater Property that contain Nguema's signature and bear stamps with the names of Igor Coletti and George Nagler.</p> <p>However, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>

interest in GW was allegedly taken over by the "Obiang family" after his death in 2007. (Ex. 27 at 420.) There is no indication that any funds from an alleged takeover of GW in 2007 were used to purchase the Defendant Assets. Inasmuch as Claimant purchased the Malibu estate in 2006, while Celotti was alive, there is absolutely no basis to claim that the defendant real property is the proceeds of that alleged takeover. Likewise although the government claims that a nexus exists between Celotti and Claimant because Claimant sent communications relating to Sweetwater's acquisition from Celotti's office in 2006, the government must concede that those communications took place while Celotti was alive and therefore before the alleged takeover, which is the only source of alleged funds its evidence could possibly suggest Claimant may have derived through GW.

⁴⁵ See Manzanares Decl., ¶ 62.

Government's Alleged Supporting Fact	Claimants' Response
	Significantly, the only source of alleged funds the government's evidence could possibly suggest Claimant may have derived through GW could not have been realized until 2007 at the earliest—after the purchase of the defendant real property. <u>See</u> n.44.
<p>21. Nguema also faxed a copy of the Supplemental Escrow Instructions pertaining to the purchase of Sweetwater to Nagler from Celotti's number. Again, the faxed document indicates at the top that this number belongs to "IGOR CELOTTI."</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 57⁴⁶ at Senate-PSI-94046</p>	<p>Undisputed But Immaterial.</p> <p>Undisputed to the extent that Exhibit 57 contains faxed documents pertaining to the Sweetwater Property that contain Nguema's signature and bear stamps with the names of Igor Coletti and George Nagler.</p>
	<p>However, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Significantly, the only source of alleged funds the government's evidence could possibly suggest Claimant may have</p>

⁴⁶ *See* Manzanares Decl., ¶ 62.

Government's Alleged Supporting Fact	Claimants' Response
	derived through GW could not have been realized until 2007 at the earliest—after the purchase of the defendant real property. <u>See</u> n.44.
22. Furthermore, in connection with wiring funds from EG into the United States to support the maintenance and upkeep of Sweetwater, Michael Berger, Nguema's associate, faxed a letter in or around January 20, 2008, to Celotti's fax line in EG, stating, "Here is the information that you need to wire transfer money to Unlimited Horizon, Inc., account at Commercial Capital Bank." In this same letter, Berger detailed Unlimited Horizon's bank account information, the address of Commercial Capital Bank in Beverly Hills and the bank's telephone number and routing number.	<p><u>Undisputed But Immaterial.</u></p> <p>Claimant does not dispute that the government possessed this document at the time the original complaint was filed.</p> <p>However, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 58 ⁴⁷ at Senate-PSI-90696	
<u>NGUEMA ATTEMPTED TO MISAPPROPRIATE \$40 MILLION IN PUBLIC FUNDS TO ACQUIRE A GULFSTREAM JET IN 2004</u>	
23. In 2004, two years before Nguema acquired Sweetwater, Nguema contacted Gulfstream Aerospace Corporation (GAC) and expressed interest in purchasing a \$40	<p><u>Undisputed But Immaterial.</u></p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had</p>

⁴⁷ See Manzanares Decl., ¶ 63.

Government's Alleged Supporting Fact	Claimants' Response
<p>1 million aircraft from GAC.</p> <p>3 Government's Evidentiary Support:</p> <p>5 Manzanares Decl., Ex. 28⁴⁸ at DOJ_390</p> <p>6 Graf Decl., Ex. 5⁴⁹ at DOJ_121-122; Ex. 6 at DOJ_114-115; Ex. 6A at DOJ_130; Ex. 8 6B at DOJ_131</p>	<p>probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>10 24. Stephen Arnold Fuller, GAC's regional vice president for Sub-Saharan Africa, recalled that Nguema informed GAC that he intended to finance the purchase of this aircraft by diverting \$40 million in public funds from the EG Government through an American oil company.</p> <p>16 Government's Evidentiary Support:</p> <p>18 Manzanares Decl., Ex. 28⁵⁰ at DOJ_390-91</p> <p>20 Graf Decl., Ex. 5⁵¹ at DOJ_125-126; Ex. 6A⁵² at DOJ_130; Ex. 6B at DOJ_131</p>	<p>11 Disputed But Immaterial.</p> <p>12 This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses(which are simply counsel's own self-serving characterizations of documents, rather than based on the personal knowledge of the verifying agent). The government cannot defeat summary judgment by simply relying on its own characterization of the evidence, but must identify and attach the specific evidence that it relied on to support the alleged fact.⁵³</p>

22 48 See Manzanares Decl., ¶ 33.

23 49 See Graf Decl., ¶ 7.

24 50 See Manzanares Decl., ¶ 33.

25 51 See Graf Decl., ¶ 7.

26 52 See Graf Decl., ¶ 9.

27 53 See Greene v. FedEx Kinko's Inc., 2007 WL 2915436, at *1 (9th Cir. Oct. 4, 2007) (holding party's reliance on his own interrogatory responses could not be considered at the summary judgment stage where the party lacked personal (footnote continued)

Government's Alleged Supporting Fact	Claimants' Response
	The exhibits cited by the government do not support the allegation that Nguema intended to misappropriate public funds from E.G. ⁵⁴

knowledge of the evidence); see also Celotex Corp. v. Catrett, 477 U.S. 317, 322-24 (1986) (“[S]ummary judgment is appropriate when a party challenged by motion fails to offer *evidence* supporting an element of a claim on which that party bears the burden of proof at trial.”) (emphasis added); cf. Coca-Cola Co. v. Overland, Inc., 692 F.2d 1250, 1255 (9th Cir. 1982) (before affidavits opposing a motion for summary judgment can be given any weight, Rule 56(e) requires that they “(1) be made on personal knowledge, (2) set forth such facts as would be admissible in evidence, and (3) show affirmatively that the affiant is competent to testify on the matters stated therein.”).

⁵⁴ According to the government’s evidence, Mr. Fuller stated that the funds due were successfully transferred to Gulfstream, without any alleged involvement of an American oil company or any evidence of misappropriation of public funds, and that he “concluded the transfer was a legitimate transaction and nothing in the transaction [gave] him any cause for alarm.” Graf Decl. Ex. 5 at DOJ_0000125.

During Claimant’s negotiations to purchase the airplane, he had several conversations with Mr. Fuller who prepared a letter regarding an April 20, 2004 conversation (Ex. 6A) and an email regarding a conversation that occurred on April 25, 2004 (Ex. 6B). According to the April 25 email, which Fuller described as containing the latest information, Claimant stated that he wanted to solve the payment issue by transferring the money through “traditional means.” Claimant then suggested a “back-up” proposal to expedite payment wherein “he could pay [one of the American oil company that have a CFA account] and they in turn could pay [Gulfstream].” Graf Decl. Ex. 6B at DOJ_0000131. Thus, the latest information on this issue belies any intention of Claimant to misappropriate public funds—Claimant allegedly suggested that he (not the E.G. government treasury) could first give a company which has an account in his native currency the money for the plane in such currency and have that company thereafter pay those funds to Gulfstream (presumably in U.S. dollars) to expedite the payment. Mr. Fuller does not describe any intention for Claimant to misappropriate any public funds in such a suggested transaction. In fact, Mr. Fuller stated that he believed Claimant was “reacting to Gulfstream’s pressure and was grasping for a solution on the payment.” Indeed, the (footnote continued)

Government's Alleged Supporting Fact	Claimants' Response
	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<p>25. Nguema told Mr. Fuller that he could and would pay for the \$40 million aircraft with public funds by having an “American oil company” initially pay GAC for the aircraft. EG would then, according to Nguema, “repay the American oil company through credits to the company’s local account in EG.”</p> <p>Government's Evidentiary Support:</p>	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government’s own interrogatory responses. <u>See</u> n.53.</p> <p>The exhibits cited by the government do not support the allegation that Nguema intended to misappropriate public funds from E.G. <u>See</u> n.54.</p>

Court too observed that the oil company was never contacted or used to purchase the jet, and that the Gulfstream executive “concluded the transfer was a legitimate transaction and nothing in the transaction has given him any cause for alarm.”” TR at 10.

Government's Alleged Supporting Fact	Claimants' Response
<p>1 Manzanares Decl., Ex. 1 at 63-64,</p> <p>2</p> <p>3 Graf Decl., Ex. 5⁵⁵ at DOJ_125-126; Ex.</p> <p>4 6⁵⁶ at DOJ_116-117; Ex. 6A⁵⁷ at</p> <p>5 DOJ_130; Ex. 6B⁵⁸ at DOJ_131</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p>	<p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>12 26. In a letter dated April 20, 2004, Fuller confirmed that Nguema was proposing to purchase from GAC a Gulfstream 550 with misappropriated public funds. Mr. Fuller stated in that letter:</p> <p>13 [Nguema] is suggesting that [GAC] contact the Chairman of Ocean Energy in Houston, Texas with regard to the Gulfstream 550. There may be an advantage in assigning the Sales Agreement to Ocean Energy and having that company assume the payment obligations for the Gulfstream 550. In return, the Government [of EG] would issue a Credit Memorandum to</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>Disputed But Immaterial.</p> <p>The exhibit cited by the Government does not support the allegation that Nguema intended to misappropriate public funds from E.G. <u>See</u> n.54.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified</p>

25 ⁵⁵ See Graf Decl., ¶ 7.

26 ⁵⁶ See Graf Decl., ¶ 8.

27 ⁵⁷ See Graf Decl., ¶ 9.

28 ⁵⁸ See Graf Decl., ¶ 10.

Government's Alleged Supporting Fact	Claimants' Response
1 Ocean Energy for amounts payable in 2 connection with oil production. 3 4	unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
Government's Evidentiary Support: 5 6 Graf Decl., Ex. 6A ⁵⁹ at DOJ_130	Disputed But Immaterial. 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28
27. Raymond Banoun, managing partner of Cadwalader, Wickersham & Taft, LLP, a New York-based law firm, served as an attorney for GAC in connection with this transaction. Like Mr. Fuller, Mr. Banoun recalled that in 2004, Nguema represented to GAC that he would misappropriate EG public funds by (i) having Ocean Energy, an American oil company, purchase the \$40 million aircraft and “assume the payments on his behalf” and then (ii) “in return” have the “Equatorial Guinea government [] issue a credit memo to Ocean Energy for monies connected with oil production in Equatorial Guinea.”	The exhibits cited by the government do not support the allegation that Nguema intended to misappropriate public funds from E.G. <u>See</u> n.54. Neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
Government's Evidentiary Support: Graf Decl., Ex. 6 ⁶⁰ at DOJ_116-117; Ex. 6A ⁶¹ at DOJ_130; Ex. 6B ⁶² at DOJ_131	Disputed But Immaterial. The exhibits cited by the government

59 See Graf Decl., ¶ 9.

60 See Graf Decl., ¶ 8.

61 See Graf Decl., ¶ 9.

62 See Graf Decl., ¶ 10.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>1 aircraft was going to be Nguema (not the 2 EG Government), “it was difficult for 3 Gulfstream to determine if the money for 4 the aircraft’s purchase was [Nguema’s] or 5 Equatorial Guinea’s money.”</p> <p>6 <u>Government’s Evidentiary Support:</u></p> <p>7 Graf Decl. Ex. 6⁶³ at DOJ_117</p>	<p>do not support the allegation that Nguema intended to misappropriate public funds from E.G. <u>See</u> n.54.</p>

27 ⁶³ See Graf Decl., ¶ 8.
28

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
	be derived.
29. According to Fuller, Gulfstream's general counsel was very concerned about the company's "criminal exposure with respect to this transaction.	<u>Disputed But Immaterial.</u> The exhibit cited by the Government does not support the alleged fact for which it is cited. Indeed, the report does not state that Fuller attributed the general counsel's alleged concerns to potential criminal liability. Instead, the report states "FULLER claimed that GULFSTREAM'S General Counsel was very concerned about this pending deal and despite receiving letters from the Department of Justice (DOJ) reassuring GULFSTREAM that they did not have any criminal exposure, the deal fell apart."
<u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 28 ⁶⁴ at DOJ_391	Further, the exhibit cited by the government does not support the allegation that Nguema intended to misappropriate public funds from E.G. <u>See</u> n.54.
	Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified

27 ⁶⁴ *See* Manzanares Decl., ¶ 33.
 28

Government's Alleged Supporting Fact	Claimants' Response
	unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
30. Indeed, according to Fuller, ultimately the “deal fell apart.”	<u>Undisputed But Immaterial.</u>
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 28⁶⁵ at DOJ_391</p>	<p>Undisputed that the government had this document and that it states the “deal fell apart.”</p> <p>However, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
31. Nguema's proposal to use a U.S. oil company to assist him with paying for personal expenses is consistent with his past behavior. In 1991, Walter International, a Texas oil company, paid for Nguema's Pepperdine University tuition as well as \$50,000 in expenses	<u>Disputed But Immaterial.</u>

⁶⁵ See Manzanares Decl., ¶ 33.

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 4⁶⁶ at DOJ_397</p> <p>Graf Decl., Ex. 16⁶⁷ at DOJ_158</p>	<p>violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Moreover, the allegation is stale inasmuch as 20 years have elapsed between the time that Claimant attended Pepperdine and the government instituted the action renders this allegation stale. <u>See</u> TR at 11 (citing <u>United States v. Grant</u>, 682 F.3d 827, 835 (9th Cir. 2012) (no probable cause on staleness grounds where nine-month gap between offense and warrant application failed to show “the property to be seized was known to be at the place to be searched so recently as to justify the belief that the property is still there at the time of the issuance of the search warrant.”)).</p>

NGUEMA ATTEMPTED TO EXTORT A U.K. FIRM IN 2003

32. In or around 2003, a British company sought permission to build a Sheraton hotel in Malabo, EG's capital. Nguema refused to permit the British company to build the Malabo hotel unless

Disputed But Immaterial.

The government's cited evidence, which it mischaracterizes, does not

⁶⁶ See Manzanares Decl., ¶ 6.

⁶⁷ See Graf Decl., ¶ 22.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
1 its executives agreed to provide him with 2 55 percent of the hotel's equity. 3 4 5 6 7 8 9 10 11 12	support the alleged fact, nor the inference the government suggests. ⁶⁸ Thus, this evidence does not even amount to an attempt. Even if it did, as the Court's tentative makes clear, such conduct would not support probable cause. Further, the government omits significant facts that raise serious question about the veracity and reliability of Simon Kareri, the subject of the interview described in Graf Decl. Ex. 7. ⁶⁹

13
14 ⁶⁸ The government has again misconstrued the actual report of
15 investigation. Contrary to the government's assertion that Claimant attempted to
16 extort money for himself from the hotel, the report clearly states that Claimant was
17 negotiating ***on behalf of the government*** and that the 55% share he allegedly
demanded was for the government because the government was not getting enough
of the share:

18 [Claimant] was the point person from the EG government in the
19 dealings with the British company. In 2003, Kareri went with a
20 delegation from the British company to Obiang's home in Los
21 Angeles, California. Obiang said the British company could not build
22 the hotel as the **EG government was not getting enough of the**
23 **share**. Obiang demanded a fifty-five percent share of the hotel, and
24 the company declined to build the hotel. Kareri does not remember the
25 name of the British company that wanted to build the hotel.
26 Graf. Ex. 7 at 83-84 (emphasis added).

27 ⁶⁹ The government fails to disclose that following their theft of \$100,000 from
28 Claimant and subsequent attempt to fraudulently conceal the theft, Simon Kareri and
his wife, Ndeye Fall, were arrested, charged, and pleaded guilty. Indeed, at the time
of the interviews, they were incarcerated and Kareri was awaiting sentencing. The
government similarly fails to disclose to the Court that Riggs bank accused Kareri of
stealing \$700,000 or more from the E.G. accounts at Riggs Bank and terminated his
(footnote continued)

Government's Alleged Supporting Fact	Claimants' Response
	Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<p>33. When the British company refused, their hotel project was not allowed to go forward</p> <p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 7 at DOJ_83-84</p>	<p><u>Undisputed But Immaterial.</u></p> <p>Claimants do not dispute that the cited evidence states that the project did not go forward after the British company rejected the E.G. government's required interest in the property.</p> <p>However, the government's cited evidence does not support the inference the government's mischaracterization of the evidence might suggest. <u>See</u> n.68.</p>

employment. Although the government possesses and reviewed reports of investigations that include all of these facts raising serious questions regarding the veracity and reliability of these witnesses and their bias against Claimant and E.G., they fail to cite these reports or alert the Court to their existence. Instead, the government hand-picks more sanitized interview reports of Kareri and Fall that omit many of these facts. See Supplemental Declaration of Brian Wheeler ("Supp. Wheeler Decl."), Ex. 1 (DOJ_0000038-49), Ex. 2 (DOJ_0000088-94).

Government's Alleged Supporting Fact	Claimants' Response
	<p>Further, the government omits significant facts that raise serious question about the veracity and reliability of Simon Kareri, the subject of the interview described in Graf Decl. Ex. 7. <u>See</u> n.69.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>34. This conversation, which took place in Los Angeles, was witnessed by Simon Kareri, a vice president of Riggs National Bank (Riggs)</p> <p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 7 at DOJ_83-84</p>	<p><u>Undisputed But Immaterial.</u></p> <p>Claimants do not dispute that the cited evidence states that Mr. Kareri claimed he witnessed the alleged conversation between Claimant and the representative of the British company in Los Angeles.</p> <p>However, the government's cited evidence does not support the inference the government's mischaracterization of the evidence might suggest. <u>See</u> n.68.</p> <p>Further, the government omits</p>

Government's Alleged Supporting Fact	Claimants' Response
	<p>significant facts that raise serious question about the veracity and reliability of Simon Kareri, the subject of the interview described in Graf Decl. Ex. 7. <u>See</u> n.69.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p><u>NGUEMA EXTORTED AND RECEIVED BRIBES FROM COMPANIES IN EG</u></p>	
<p>35. In April 2011, <u>Foreign Policy Magazine</u> quoted a timber executive who worked in EG as stating, “[Nguema] would call emergency meetings of all the logging company heads in which he would announce some new so-called tax on logging operations.”</p>	<p><u>Undisputed that the cited document makes this statement.</u></p> <p><u>Disputed that this fact is based on reliable evidence.</u></p> <p><u>Immaterial.</u></p> <p>This factual allegation is based solely</p>

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 27⁷⁰ at DOJ_840</p>	<p>on the claims of an NGO that the government has not corroborated. The State Department warned the government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.</p> <p>Further, the government has failed to corroborate the allegations attributed to, or the reliability of, this unidentifiable alleged "timber executive." <u>See, e.g.</u>, TR at 11, n.9.</p>
	<p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>36. According to this executive, Nguema charged timber companies an extra so-called "tax" that they were forced to pay him personally for wood harvested in EG. Nguema purportedly charged timber companies directly per cubic meter</p>	<p><u>Undisputed that the cited document makes this statement.</u></p> <p><u>Disputed that this fact is based on reliable evidence.</u></p>

⁷⁰ *See* Graf Decl., ¶ 34.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
of timber harvested by that company.	<u>Immaterial.</u>
<p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 27⁷¹ at DOJ_840</p>	<p>This factual allegation is based solely on the claims of an NGO that the government has not corroborated. The State Department warned the government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.</p>
	<p>Further, the government has failed to corroborate the allegations attributed to, or the reliability of, this unidentifiable alleged "timber executive." <u>See, e.g.,</u> TR at 11, n.9.</p>
	<p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>37. Similarly, a French timber executive, identified as "Jean Michel" in this same <u>Foreign Policy Magazine</u></p>	<p><u>Undisputed that the cited document makes this statement.</u></p>

⁷¹ *See* Graf Decl., ¶ 34.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
1 article, reported that Nguema seized the 2 French logging company he worked for in 3 EG. 4	<u>Disputed that this fact is based on reliable evidence.</u> <u>Immaterial.</u>
<u>Government's Evidentiary Support:</u>	
5 Graf Decl., Ex. 27 ⁷² at DOJ_840-841 6 7 8 9 10 11	This factual allegation is based solely on the claims of an NGO that the government has not corroborated. The State Department warned the government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.
	Further, the government has failed to corroborate the allegations attributed to, or the reliability of, "Jean Michel." <u>See, e.g.,</u> TR at 11, n.9.
	Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
25 38. It was impossible, according to Jean 26	<u>Undisputed that the cited document</u>

27 ⁷² *See* Graf Decl., ¶ 34.
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<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>1 Michel, for timber companies to do 2 business in EG without paying bribes to 3 Nguema. Although Jean Michel's 4 company initially paid Nguema the bribes 5 that he demanded, his company's 6 operations were shut down after it refused 7 to make any further bribe payments to Nguema.</p>	<p><u>makes this statement.</u> <u>Disputed that this fact is based on reliable evidence.</u> <u>Immaterial.</u></p>

8 **Government's Evidentiary Support:**

9 Graf Decl., Ex. 27⁷³ at DOJ_840-841

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 15 This factual allegation is based solely
 on the claims of an NGO that the
 government has not corroborated. The
 State Department warned the
 government on two separate occasions
 about the unreliability of NGOs. See
 Claimants' Supplemental Brief at 9-10
 and Reply Memorandum at 13.

16
 17 Further, the government has failed to
 18 corroborate the allegations attributed to,
 or the reliability of, "Jean Michel."
See, e.g., TR at 11, n.9.

19
 20 Moreover, neither this alleged fact, nor
 21 the evidence cited, support the
 22 government's burden to show it had
 23 probable cause to believe the specific
 24 Defendant Assets were forfeitable as
 25 proceeds of, or property involved in,
 26 the specified unlawful activity –
 27 violations of foreign law – giving rise
 28 to forfeiture under the statute invoked,
 nor that Claimant engaged in specified
 unlawful activity in the first instance
 that in fact generated criminal proceeds
 from which the Defendant Assets could

73 *See* Graf Decl., ¶ 34.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
	be derived.
<p>39. Similarly, a former United States intelligence official, who was familiar with EG, reported to Global Witness, a U.K. NGO, that Nguema solicits and accepts bribes from Malaysian, North Korean and Chinese timber companies. According to this intelligence official, “There were Malaysian, North Korean, and Chinese logging camps on the mainland [of EG], and [Nguema] collected cash from them . . . for logging operations, much of it involving valuable hardwood.”</p>	<p><u>Undisputed that the cited document makes this statement.</u></p> <p><u>Disputed that this fact is based on reliable evidence.</u></p> <p><u>Immaterial.</u></p>
<p><u>Government's Evidentiary Support:</u></p> <p>Graf Decl., Ex. 16⁷⁴ at DOJ_1058</p>	<p>This factual allegation is based solely on the claims of an NGO that the government has not corroborated. The State Department warned the government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.</p> <p>Further, the government has failed to corroborate the allegations attributed to, or the reliability of, this unidentifiable alleged “former intelligence official.” <u>See</u>, e.g., TR at 11, n.9.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified</p>

74 *See* Graf Decl., ¶ 22.

Government's Alleged Supporting Fact	Claimants' Response
	unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
40. Indeed, Nguema confirmed to U.S. diplomats at the U.S. Embassy in EG in 2009 that he permitted a Malaysian company to deploy 40 teams of well-equipped lumberjacks to “clear cut” a “large tract of pristine continental jungle” that was “granted” to him by the EG Government.	<p><u>Undisputed But Immaterial.</u></p> <p>This alleged fact is immaterial because the cable further states that this activity was lawful at the time, and that a new law was passed to restrict this type of harvesting after this event. (Ex. 15 at DOJ 586).</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Graf Decl., Ex. 15⁷⁵ at DOJ_586</p>	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
41. In addition, in November 2009, Global Witness reported that Nguema received corrupt payments from Elf-Aquitaine, a French oil and gas company. In 2004, thirty senior executives of Elf Aquitaine were charged and	<p><u>Disputed But Immaterial.</u></p> <p>The evidence cited by the government does not support this alleged fact. Rather, the actual document, a Global Witness article, claims that “the French</p>

⁷⁵ See Graf Decl., ¶ 21.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>convicted in France of distributing bribes and kickbacks in Africa over a period of several decades.</p>	<p>government courted and developed [Claimant] to be its man in charge after his father died.” (Ex. 16 at 1059.) The article continues by stating that “French agents out of Gabon paid money to [Claimant], as did Elf-Aquitaine. The French state oil company, later bought by Total, became famous for bribing foreign leaders, although [Claimant] <i>was not among those identified by the 2003 Elf investigation and trial in France.</i>” (<u>Id.</u> (emphasis added).)</p>

NGUEMA ENGAGED IN COMMERCIAL ACTIVITIES RELATING TO HIS OFFICIAL DUTIES AND JURISDICTION IN VIOLATION OF EG'S ANTI-CORRUPTION LAWS

42. In 2006, Nguema filed an affidavit with the Cape Town High Court in South Africa.

Undisputed But Immaterial.

Neither this alleged fact, nor the

⁷⁶ See Graf Decl., ¶ 22.

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 53⁷⁷ at DOJ_557-560, 569-571</p>	<p>evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>43. In that affidavit, Nguema acknowledged that he, while serving as a cabinet minister, bids on and benefits from obtaining government infrastructure contracts in EG. That affidavit stated:</p> <p>Cabinet Ministers and public servants in Equatorial Guinea are by law allowed to [own] companies that, in consortium with a foreign company, can bid for government contracts and should the company be successful, then what percentage of the total cost of the contract the company gets, will depend on the terms negotiated between the parties.</p> <p>But, in any event, it means that a cabinet minister ends up with a sizeable part of the contract price in his bank account.</p>	<p><u>Undisputed that the government possessed this affidavit.</u></p> <p><u>Disputed that the government has accurately characterized the document.</u></p> <p>The affidavit speaks for itself and the government's preamble, including the reference to infrastructure contracts in E.G., is not included in the document.</p> <p>The evidence cited by the government notes that such conduct is legal in EG. (Ex. 53; <u>see also</u> Graf Decl., Ex. 15 at DOJ_000585-86).</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific</p>

⁷⁷ See Manzanares Decl., ¶ 58.

Government's Alleged Supporting Fact	Claimants' Response
<p style="text-align: center;">* * *</p> <p>One of the companies that I own is SOCIEDAD DE CARRETERAS DE GUINEA ECUATORIAL (“SOCAGE”), with a bank account at the CCEI BANK GE, in BATA, the commercial capital of [EG].</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 53⁷⁸ at DOJ_569-570</p>	<p>Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>44. Similarly, in 2009, Nguema told a U.S. diplomat that his timber firm, which he still owns, worked with a Malaysian timber company to deploy 40 teams of well-equipped lumberjacks to “clear cut” a “large tract of pristine continental jungle” that was “granted” to him by the EG Government. As a result of these operations, Nguema purportedly earned a “large windfall” by exporting this raw timber to Asia.</p> <p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 15⁷⁹ at DOJ_586</p>	<p>Disputed But Immaterial.</p> <p>Disputed to the extent that such conduct is legal in EG and the Government fails to note the context of the quotation. The State Department cable states that “[Nguema] explains that during the time of the ‘skinny cows,’ the government ‘granted’ him a concession to lumber a large tract of pristine continental jungle.” (Graf. Decl., Ex. 15 at DOJ_0000586).</p> <p>The cable further states that this activity was lawful at the time, and that a new law was passed to restrict this type of harvesting after this event. (Ex. 15 at DOJ 586).</p> <p>Neither this alleged fact, nor the</p>

⁷⁸ See Manzanares Decl., ¶ 58.

⁷⁹ See Graf Decl., ¶ 21.

Government's Alleged Supporting Fact	Claimants' Response
	evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<p>45. Indeed, according to Global Witness, a non-governmental organization, Nguema “collected cash” from timber companies in exchange for allowing them to engage in logging operations in EG</p> <p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 16⁸⁰ at DOJ_1058</p>	<p><u>Undisputed that the cited document makes this statement.</u></p> <p><u>Disputed that this fact is based on reliable evidence.</u></p> <p><u>Immaterial.</u></p> <p>This factual allegation is based solely on the claims of an NGO that the government has not corroborated. The State Department warned the government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.</p> <p>Further, the government has failed to corroborate the allegations attributed to, or the reliability of, this unidentifiable alleged “former intelligence official.”</p>

⁸⁰ *See* Graf Decl., ¶ 22.

Government's Alleged Supporting Fact	Claimants' Response
	<p>See, e.g., TR at 11, n.9.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>46. In 2011, Nguema changed his story yet again. This time Nguema claimed to Ambassador Alberto Fernandez, the United States' then Ambassador to EG, that his personal wealth was derived from government infrastructure contracts.</p> <p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 14⁸¹ at DOJ_590-591</p>	<p>Disputed But Immaterial.</p> <p>Claimant has not provided “inconsistent stories;” as the government's own evidence plainly shows. Rather, on separate occasions, Claimant denied that he engaged in corruption and that his business interests were legitimate. In neither instance was Claimant asked for an exhaustive list as to the sources of his wealth. <u>See</u> Reply Memo at 18.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as</p>

81 *See* Graf Decl., ¶ 20.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
	proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<u>IN ADDITION TO ITALY, NGUEMA IS ALSO THE SUBJECT OF AN INVESTIGATION IN FRANCE</u>	
47. Nguema is the subject of a criminal investigation in France.	<u>Undisputed But Immaterial.</u>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 2⁸² at SENATE-PSI 124611-124612; Ex. 32⁸³ at DOJ_452</p> <p>Graf Decl., Ex. 16⁸⁴ at DOJ_1061-1062</p>	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
48. In March 2007, three French NGOs—Sherpa, Serpie, and the Federation of the Congolese Diaspora—	<u>Undisputed But Immaterial.</u> The allegations by these NGOs are not

⁸² See Manzanares Decl., ¶ 4.

⁸³ See Manzanares Decl., ¶ 37.

⁸⁴ See Graf Decl., ¶ 22.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
1 filed a criminal complaint with French 2 prosecutors, alleging that Nguema's 3 family acquired substantial assets with 4 stolen public monies.	evidence and the government has not identified any evidence which would support their claims.
<p>5 <u>Government's Evidentiary Support:</u></p> <p>6 Manzanares Decl., Ex. 2⁸⁵ at SENATE- 7 PSI 124611-124612</p> <p>8 Graf Decl., Ex. 16⁸⁶ at DOJ_1061-1062</p>	Further, the government does not identify any effort it made to demonstrate that these NGOs are reliable or that it otherwise corroborated their claims. The State Department warned the government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.
	Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
22 49. On July 9, 2008, Transparency 23 International France, a French NGO, also 24 filed a criminal complaint with French prosecutors requesting that they	<u>Undisputed But Immaterial.</u> The allegations by these NGOs are not evidence and the government has not

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27 ⁸⁵ *See* Manzanares Decl., ¶ 4.
28 ⁸⁶ *See* Graf Decl., ¶ 22.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 investigate whether Nguema's family used stolen public monies from EG to acquire assets in France. <u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 2 ⁸⁷ at SENATE- PSI 124611-124612 Graf Decl., Ex. 16 ⁸⁸ at DOJ_1061-1062	identified any evidence which would support their claims. Further, the government does not identify any effort it made to demonstrate that these NGOs are reliable or that it otherwise corroborated their claims. The State Department warned the government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.
	Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
50. According to French court documents filed on June 2007, an investigation by French police “confirmed most of the allegations” in the criminal complaint	<u>Disputed But Immaterial.</u> The evidence cited by the government does not support the alleged fact that the French police confirmed the

⁸⁷ *See* Manzanares Decl., ¶ 4.

⁸⁸ *See* Graf Decl., ¶ 22.

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 2⁸⁹ at SENATE-PSI 124611</p>	<p>allegations in the complaint.⁹⁰</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>51. United States law enforcement authorities met with the French Judicial Police in September 2007 to discuss the</p>	<p><u>Undisputed But Immaterial.</u></p>

⁸⁹ See Manzanares Decl., ¶ 4.

⁹⁰ The government attempts to mislead this court by suggesting that Claimant was the subject of a French criminal investigation and that “French police ‘confirmed most of the allegations’ in the criminal complaint.” However, the evidence reveals no such thing. The PSI simply notes that three NGOs filed a lawsuit (in France) claiming that the ruling families of several African states had allegedly amassed millions of dollars worth of properties in France “that could not be the fruits of their official salaries . . . but would have likely required the use of stolen public assets.” (Ex. 2 at -124611.) Later, the NGOs filed a legal memorandum in which *the NGOs claimed* that the French police had corroborated most of the allegations and uncovered additional luxury assets. Thus, contrary to the government’s suggestion, there is no evidence that the French police confirmed any of the NGOs claims. Rather, the NGOs filed a brief which contained that self-serving statement. Significantly, the PSI did not identify a single document from the French Police stating that they had corroborated the NGOs claims or otherwise establishing that those assets were the proceeds of foreign corruption. Ex. 2 PSI at 124611 n.78.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
French investigation.	The government does not identify any of the evidence underlying the French investigation. The mere existence of the investigation without more does not support probable cause.
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 1 at 101</p>	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<p>52. Since that time, United States law enforcement authorities have continued to have communications with French law enforcement authorities regarding their investigation, including on March 19, 2011, when an ICE representative met with the head of the French National Police's money laundering unit. France's criminal investigation of Nguema remains active.</p>	<p><u>Undisputed But Immaterial.</u></p> <p>The government does not identify any of the evidence underlying the French investigation. The mere existence of the investigation without more does not support probable cause.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific</p>

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 32⁹¹ at DOJ_452</p>	<p>Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>53. Based upon these investigations, the United States Senate Permanent Subcommittee on Investigations (PSI) concluded in their 2010 report “Keeping Foreign Corruption Out of the United States: Four Case Histories,” that “substantial public concerns [exist] about the Obiang family in general and [Nguema] in particular, and suggest that the funds in their possession should be viewed as suspect”</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 2⁹² at SENATE-PSI-124614</p>	<p><u>Undisputed that the cited document makes this statement.</u></p> <p><u>Disputed to the extent this is a conclusion and not a fact.</u></p> <p><u>Immaterial.</u></p> <p>Claimants do not dispute that the government possessed the cited document at the time it instituted this action, and that the document makes this conclusion based on foreign complaints and press articles.</p> <p>However, this alleged fact is a conclusion and not a fact. Moreover, the government fails to cite the underlying evidence upon which this conclusion was allegedly based.</p> <p>Neither this alleged fact, nor the evidence cited, support the</p>

⁹¹ See Manzanares Decl., ¶ 37.

⁹² See Manzanares Decl., ¶ 4.

Government's Alleged Supporting Fact	Claimants' Response
	government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<u>NGUEMA USED STATE FUNDS TO RENOVATE SOUTH AFRICAN HOME</u>	
54. In South Africa, George Ehlers, a South African businessman, filed a lawsuit in the Cape Town High Court against the EG Government.	<p><u>Undisputed But Immaterial.</u></p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 2⁹³ at Senate-PSI-124610; Ex. 53 at DOJ_557-559; Ex. 1 at 65-67</p>	
55. In that litigation which was filed in or around July 2005, less than one year prior to Nguema's acquisition of	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim</p>

⁹³ See Manzanares Decl., ¶ 4.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>1 Sweetwater, Ehlers alleged that EG's 2 Infrastructure Ministry, which Nguema 3 supervised as its Minister, was in breach 4 of a \$7.8 million government 5 infrastructure contract with his company, 6 Engineering Design and Construction 7 Company</p> <p>8</p> <p><u>Government's Evidentiary Support:</u></p> <p>9 Manzanares Decl., Ex. 2⁹⁴ at Senate-PSI- 10 124610; Ex. 1 at 65-67</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p>	<p>quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53.</p> <p>Further, the government has cited no evidence for the alleged fact that Claimant served as "EG's Infrastructure Minister," nor the dates during which such service allegedly occurred that would correspond with the South Africa allegations.</p>
<p>20</p> <p>21 56. Nguema owned two "luxury" 22 homes in Cape Town that was worth in or 23 around \$7 million</p> <p>24</p> <p><u>Government's Evidentiary Support:</u></p> <p>25 Manzanares Decl., Ex. 2⁹⁵ at Senate-PSI-</p> <p>26</p> <p>27</p> <p>28</p>	<p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p><u>Undisputed But Immaterial.</u></p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in,</p>

⁹⁴ *See* Manzanares Decl., ¶ 4.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>124610; Ex. 53⁹⁶ at DOJ_560</p> <p>3 Graf Decl., Ex. 16⁹⁷ at DOJ_1062</p>	<p>the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>8 57. Ehlers alleged that Nguema used 9 funds misappropriated from the EG 10 Government to acquire and renovate these 11 properties.</p> <p>12 <u>Government's Evidentiary Support:</u></p> <p>13 Manzanares Decl., Ex. 2⁹⁸ at Senate-PSI- 14 124610</p>	<p><u>Undisputed that the government possessed the cited document.</u></p> <p><u>Disputed that this fact is based on reliable evidence.</u></p> <p><u>Immaterial.</u></p> <p>Ehlers's allegations in unrelated litigation before a South African tribunal is not evidence.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance</p>

25 95 See Manzanares Decl., ¶ 4.

26 96 See Manzanares Decl., ¶ 58.

27 97 See Graf Decl., ¶ 22.

28 98 See Manzanares Decl., ¶ 4.

Government's Alleged Supporting Fact	Claimants' Response
	that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<p>58. The funds used to purchase these properties were wired into South Africa in 2004 from an account at CCEI Bank in EG held in the name of SOCAGE.</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 2⁹⁹ at Senate-PSI-124610; Ex. 53¹⁰⁰ at DOJ_571</p>	<p><u>Undisputed But Immaterial.</u></p> <p>Undisputed to the extent Exhibit 53, which appears to be the affidavit of Nguema submitted in conjunction with a court proceeding in South Africa, states that Nguema, under the laws of EG, legally owned Sociedad de Carreteras de Guinea Ecuatorial ("Socage") and that funds from a Socage account at CCEI Bank were transferred to the account of William Inglis Inc. with the Standard Bank of South Africa. (Manzanares, Ex. 53 at 7-8).</p> <p>However, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>

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27 ⁹⁹ See Manzanares Decl., ¶ 4.
28 ¹⁰⁰ See Manzanares Decl., ¶ 58.

Government's Alleged Supporting Fact	Claimants' Response
<p>59. In support of his lawsuit, Ehlers filed an affidavit executed by Patricia Fuller. Ms. Fuller recalled that she spoke with Peter McNamara, a contractor hired to renovate Nguema's property in Constantia</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 52¹⁰¹ at 1902-1904</p>	<p><u>Undisputed But Immaterial.</u></p> <p>Undisputed that the government had this document at the time it instituted the action.</p> <p>However, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>

¹⁰¹ See Manzanares Decl., ¶ 57.

Government's Alleged Supporting Fact	Claimants' Response
<p>McNamara advised Ms. Fuller that he had never heard of Nguema and that he was communicating with the EG Government directly about how to renovate the property. Furthermore, McNamara claimed that he was under the impression that the property belonged to the EG Government</p>	<p><u>Undisputed that the cited document makes this statement.</u></p> <p><u>Disputed that this fact is based on reliable evidence.</u></p> <p><u>Immaterial.</u></p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 1 at 65-67; Ex. 52¹⁰² at 1903-1904</p>	<p>This factual allegation is not based on reliable evidence and the government has not corroborated the source of this information. Even if it had done so, the subjective belief of contractors working on a house in South Africa is insufficient to support probable cause that the Defendant Assets were the proceeds of specified unlawful activity.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>60. McNamara submitted an invoice for in or around R 3,144,524 (approximately</p>	<p><u>Disputed But Immaterial.</u></p>

¹⁰² See Manzanares Decl., ¶ 57.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>\$359,532) to Jacques Levy, an interior decorator in Switzerland, for his services relating to Nguema's house in Constantia. As McNamara had no knowledge of Nguema, and was receiving his instructions from the EG Government regarding the home's renovations, Ehlers alleged that the funds used to acquire and renovate these properties were misappropriated from the EG Government. Although Ehlers prevailed against Nguema before the trial court, an appellate court reversed that decision on other grounds.</p>	<p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p> <p>Further, Ehlers uncorroborated and unproven allegations are not evidence, but rather nothing more than his own speculation.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 1 at 65-67</p>	
	<p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p><u>NGUEMA'S ACQUISITION OF MORE THAN \$100 MILLION IN NET WORTH WHILE EARNING LESS THAN \$100,000 PER YEAR AS A PUBLIC OFFICIAL</u></p> <p>61. During a period of three months in 2006, Nguema spent \$68 million on two assets in the United States: the \$30 million Sweetwater Property and a \$38 million Gulfstream G-V jet aircraft, an amount equivalent to more than 6,800 times his annual official income.</p>

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 2¹⁰³ at Senate-PSI-124601- 124602; Ex. 3¹⁰⁴ at DOJ_171; Ex. 42¹⁰⁵ at DOJ_219; Ex. 43¹⁰⁶ at DOJ_213; Ex. 43 at DOJ_216</p> <p>Graf Decl., Ex. 16¹⁰⁷ at DOJ_1064</p>	<p>However, Claimants object to the government's characterization of this evidence to the extent the government alleges this represents the entirety of his earnings. Significantly, the government fails to acknowledge that Claimant had other undisputed sources of substantial, legitimate income, including, for example, his timber concessions. (See Graf Ex. 15 at DOJ_0000586).</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Further, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>

¹⁰³ *See* Manzanares Decl., ¶ 4.

¹⁰⁴ *See* Manzanares Decl., ¶ 5.

¹⁰⁵ *See* Manzanares Decl., ¶ 47.

¹⁰⁶ *See* Manzanares Decl., ¶ 48.

¹⁰⁷ *See* Graf Decl., ¶ 22.

Government's Alleged Supporting Fact	Claimants' Response
<p>62. In addition, Nguema acquired 26 luxury automobiles and motorcycles valued at in or around \$12 million, including a 2006 Aston Martin, five Bentley automobiles, two Bugatti Veyron vehicles, seven Ferrari sports cars, a Lamborghini, a Maserati, two Mercedes automobiles, a Porsche Carrera GT, four Rolls Royces, five Harley-Davidson motorcycles, and two Toiks Choppers</p>	<p><u>Undisputed But Immaterial.</u></p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 41¹⁰⁸ at DOJ_238-239; Ex. 42 at DOJ_219-223; Ex. 55 at DOJ_179-80</p>	<p>Moreover, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the defendant assets.</p>
<p>63. Similarly, in 2004, Nguema spent more than \$80 million (more than 880 times Nguema's official annual income) to acquire his Parisian home on Avenue Foch valued at approximately \$80 million (worth more than 800 times his public salary).</p> <p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 1 at 18; Ex. 2¹⁰⁹ at SENATE-PSI-124611-124612</p>	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. The cited documentary evidence does not support the alleged fact.</p> <p>Claimants do not dispute that the government possessed evidence at the time it instituted this action that</p>

108 See Manzanares Decl., ¶ 46.

Government's Alleged Supporting Fact	Claimants' Response
	<p>Claimant's salary as a government official was reportedly less than \$100,000, but Claimants object to the government's characterization of this evidence to the extent the government alleges this represents the entirety of his earnings. Significantly, the government fails to acknowledge that Claimant had other undisputed sources of substantial, legitimate income, including, for example, his timber concessions. (See Graf Ex. 15 at DOJ_0000586).</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Further, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
64. In 2001, Nguema acquired a \$6 million home in Bel Air, California (worth	<u>Undisputed But Immaterial.</u>

¹⁰⁹ See Manzanares Decl., ¶ 4.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>more than 60 times Nguema's public salary)</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 2¹¹⁰ at SENATE-PSI-124683</p>	<p>Claimants do not dispute that the government possessed evidence at the time it instituted this action that Claimant acquired these assets and that his salary as a government official was reportedly less than \$100,000.</p> <p>However, Claimants object to the government's characterization of this evidence to the extent the government alleges this represents the entirety of his earnings. Significantly, the government fails to acknowledge that Claimant had other undisputed sources of substantial, legitimate income, including, for example, his timber concessions. (See Graf Ex. 15 at DOJ_0000586).</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Further, Claimant's spending habits are irrelevant to a determination of</p>

¹¹⁰ See Manzanares Decl., ¶ 4.

Government's Alleged Supporting Fact	Claimants' Response
	probable cause to forfeit the Defendant Assets.
<p>65. Nguema acquired two 50-foot racing boats for over \$2 million in 2005 (worth more than 20 times Nguema's annual public salary)</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 42¹¹¹ at DOJ_219; Ex. 55¹¹² at DOJ_180</p>	<p>Undisputed But Immaterial.</p> <p>Claimants do not dispute that the government possessed evidence at the time it instituted this action that Claimant acquired these assets and that his salary as a government official was reportedly less than \$100,000.</p>
	<p>However, Claimants object to the government's characterization of this evidence to the extent the government alleges this represents the entirety of his earnings. Significantly, the government fails to acknowledge that Claimant had other undisputed sources of substantial, legitimate income, including, for example, his timber concessions. (See Graf Ex. 15 at DOJ_0000586).</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance</p>

¹¹¹ See Manzanares Decl., ¶ 47.

¹¹² See Manzanares Decl., ¶ 60.

Government's Alleged Supporting Fact	Claimants' Response
	<p>that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Further, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
<p>66. Nguema spent \$2,270,187.50 on various Michael Jackson memorabilia in 2010 (worth more than 22 times Nguema's annual public salary)</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 1 at 11-12; Ex. 40¹¹³ at DOJ_6350, 3838, 3840</p>	<p><u>Undisputed But Immaterial.</u></p> <p>Claimants do not dispute that the government possessed evidence at the time it instituted this action that Claimant acquired these assets and that his salary as a government official was reportedly less than \$100,000.</p> <p>However, Claimants object to the government's characterization of this evidence to the extent the government alleges this represents the entirety of his earnings. Significantly, the government fails to acknowledge that Claimant had other undisputed sources of substantial, legitimate income, including, for example, his timber concessions. (See Graf Ex. 15 at DOJ_0000586).</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in,</p>

¹¹³ *See* Manzanares Decl., ¶ 45.

Government's Alleged Supporting Fact	Claimants' Response
	<p>the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Further, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
<p>67. Nguema spent \$494,700 on additional Michael Jackson memorabilia in 2011 (worth nearly 5 times Nguema's annual public salary)</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 1 at 11-12</p>	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p>

Government's Alleged Supporting Fact	Claimants' Response
	<p>Graf Ex. 15 at DOJ_0000586).</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Further, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
<p>68. Between May and September 2009, Nguema wired \$609,300 to Yachtzoo, a company in Ft. Lauderdale, Florida, in connection with a luxury yacht rental (the equivalent of more than six times his public salary)</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 1 at 14</p>	<p>Disputed But Immaterial.</p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p> <p>Claimants do not dispute that the government possessed evidence at the time it instituted this action that Claimant's salary as a government official was reportedly less than \$100,000.</p> <p>However, Claimants object to the government's characterization of this</p>

Government's Alleged Supporting Fact	Claimants' Response
	<p>evidence to the extent the government alleges this represents the entirety of his earnings. Significantly, the government fails to acknowledge that Claimant had other undisputed sources of substantial, legitimate income, including, for example, his timber concessions. (See Graf Ex. 15 at DOJ_0000586).</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Further, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
69. Similarly, during the Christmas holiday in 2005, Nguema spent in or around \$600,000 to rent a luxury yacht called the Tatoosh (the equivalent of six times his public salary)	<p><u>Undisputed But Immaterial.</u></p> <p>Claimants do not dispute that the government possessed evidence at the time it instituted this action that Claimant reportedly rented a yacht and that his salary as a government official</p>

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 2¹¹⁴ at Senate-PSI-124607, fn. 63</p>	<p>was reportedly less than \$100,000.</p> <p>However, Claimants object to the government's characterization of this evidence to the extent the government alleges this represents the entirety of his earnings. Significantly, the government fails to acknowledge that Claimant had other undisputed sources of substantial, legitimate income, including, for example, his timber concessions. (See Graf Ex. 15 at DOJ_0000586).</p>
	<p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Further, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
<p>70. In South Africa, Nguema purchased two pieces of real estate for approximately</p>	<p><u>Undisputed But Immaterial.</u></p>

¹¹⁴ *See* Manzanares Decl., ¶ 4.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>\$7.8 million (more than 70 times his annual public salary).</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 2¹¹⁵ at Senate-PSI-124610</p> <p>Graf Decl., Ex. 16¹¹⁶ at DOJ_ 1062</p>	<p>Claimants do not dispute that the government possessed evidence at the time it instituted this action that Claimant acquired these assets and that his salary as a government official was reportedly less than \$100,000.</p> <p>However, Claimants object to the government's characterization of this evidence to the extent the government alleges this represents the entirety of his earnings. Significantly, the government fails to acknowledge that Claimant had other undisputed sources of substantial, legitimate income, including, for example, his timber concessions. (See Graf Ex. 15 at DOJ_0000586).</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Further, Claimant's spending habits are</p>

¹¹⁵ See Manzanares Decl., ¶ 4.

¹¹⁶ See Graf Decl., ¶ 22.

Government's Alleged Supporting Fact	Claimants' Response
	irrelevant to a determination of probable cause to forfeit the Defendant Assets.
<p>71. Nguema purchased luxury vehicles in South Africa, including two Bentley automobiles for approximately \$970,000 and a white 2005 6-litre Lamborghini Murcielago for approximately \$440,000.</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 2¹¹⁷ at Senate-PSI-124607, fn. 63</p>	<p><u>Undisputed But Immaterial.</u></p> <p>Claimants do not dispute that the government possessed evidence at the time it instituted this action that Claimant acquired these assets and that his salary as a government official was reportedly less than \$100,000.</p> <p>However, Claimants object to the government's characterization of this evidence to the extent the government alleges this represents the entirety of his earnings. Significantly, the government fails to acknowledge that Claimant had other undisputed sources of substantial, legitimate income, including, for example, his timber concessions. (See Graf Ex. 15 at DOJ_0000586).</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance</p>

¹¹⁷ See Manzanares Decl., ¶ 4.

Government's Alleged Supporting Fact	Claimants' Response
	<p>that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Further, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
<p>72. On or about March 12, 2009, the City of London Police Economic Crimes Division informed the United States that Nguema was attempting to open a bank account in the United Kingdom. The bank account, according to the City of London Police, was to receive and hold \$350 million. These funds were expected to be transferred from an account in Spain, that was opened by a third-party nominee of Nguema. The City of London Police also reported that these funds were purportedly obtained through illegal means.</p>	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>19 Manzanares Decl., Ex. 1 at 15</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>Significantly, the funds and bank account identified in this alleged fact are not alleged to have been used in connection with the acquisition of the named Defendant Assets.</p> <p>Moreover, Nguema's spending habits</p>

Government's Alleged Supporting Fact	Claimants' Response
	are irrelevant to a determination of probable cause to forfeit the defendant assets.
73. In or around June 2008, Nguema retained Kusch Yacht Projekte GmbH Am Hafen (Kusch) in Germany to design and build a \$380 million yacht (equivalent to more than 380 times his public salary). Nguema paid the company €200,000 in three segments on July 30, 2008; October 2, 2008; and October 31, 2008, for work completed in relation to the pre-design of this yacht.	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 1 at 15-16</p>	<p>Claimants do not dispute that the government possessed evidence at the time it instituted this action that Claimant's salary as a government official was reportedly less than \$100,000.</p> <p>However, Claimants object to the government's characterization of this evidence to the extent the government alleges this represents the entirety of his earnings. Significantly, the government fails to acknowledge that Claimant had other undisputed sources of substantial, legitimate income, including, for example, his timber concessions. (See Graf Ex. 15 at DOJ_0000586).</p> <p>Further, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific</p>

Government's Alleged Supporting Fact	Claimants' Response
	Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<u>NGUEMA'S FORMATION OF MULTIPLE SHELL COMPANIES TO OPEN BANK ACCOUNTS AT AMERICAN FINANCIAL INSTITUTIONS</u>	
74. As far back as March 2004, Nguema formed a company called TNO Entertainment to open bank accounts at Riggs National Bank (Riggs) and City National Bank. TNO Entertainment was formed in California and listed Adam Siegler as its registered agent.	<p><u>Disputed But Immaterial.</u></p> <p>The government's cited evidence does not support the alleged fact that this company was formed for the express purpose "to open bank accounts" at these institutions.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 2¹¹⁸ at SENATE-PSI-124649-124650; Ex. 42¹¹⁹ at DOJ_223</p>	<p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds</p>

¹¹⁸ See Manzanares Decl., ¶ 4.

¹¹⁹ See Manzanares Decl., ¶ 47.

Government's Alleged Supporting Fact	Claimants' Response
	<p>from which the Defendant Assets could be derived.</p> <p>Significantly, the bank account and entity identified in this fact are not alleged to have been used in connection with the acquisition of the named Defendant Assets the government seeks to forfeit.</p>
<p>75. Also, in 2004, Nguema used Beautiful Vision, Inc., another shell company, to open bank accounts at Bank of America (BOA). Beautiful Vision did not engage in legitimate economic or commercial activity of any kind. Its only function was to conceal Nguema's association with this account from BOA. Beautiful Vision, Inc. was formed in California and listed Berger as its registered agent. Between November 1, 2004, and November 2005, at least \$1 million in funds originating from EG were funneled into Beautiful Vision's accounts at BOA.</p>	<p><u>Disputed But Immaterial.</u></p> <p>The cited documents do not state that Beautiful Vision, Inc. did not engage in legitimate economic or commercial activity. Indeed, the documents state that the accounts in the name of this entity were used to pay certain bills and expenses.</p> <p>Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 2¹²⁰ at SENATE-PSI-124615-124616; 124626-124629; Ex. 42¹²¹ at DOJ_224; Ex. 43¹²² at DOJ_214-215</p>	<p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise</p>

¹²⁰ See Manzanares Decl., ¶ 4.

¹²¹ See Manzanares Decl., ¶ 47.

¹²² See Manzanares Decl., ¶ 48.

Government's Alleged Supporting Fact	Claimants' Response
	<p>to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Significantly, the bank account and entity identified in this fact are not alleged to have been used in connection with the acquisition of the named Defendant Assets the government seeks to forfeit.</p>
<p>76. Nguema formed Sweet Pink, Inc. in 2005 and used it to open a bank account at Union Bank of California (UBOC) in September 2005. Sweet Pink was incorporated in California and listed Nagler as its registered agent. Sweet Pink engaged in no economic or commercial activity of any kind. Its only function was to conceal Nguema's association with this account from UBOC. Nguema wired \$29,947.50 into Sweet Pink's account from an EG bank account in the name of Somagui in or around October 19, 2005.</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 2 at SENATE-PSI-124620-124621; Ex. 42¹²³ at DOJ_224; Ex. 43¹²⁴ at DOJ_213-214; Ex. 62¹²⁵ at Senate-PSI-120253-120254</p>	<p>Disputed But Immaterial.</p> <p>The cited documents do not state that Sweet Pink, Inc. did not engage in legitimate economic or commercial activity. Indeed, the documents state that this entity was used to "handle payroll and other matters related to the employment of those individuals." (Ex. 62 at -120253.)</p> <p>Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific</p>

¹²³ See Manzanares Decl., ¶ 47.

¹²⁴ See Manzanares Decl., ¶ 48.

Government's Alleged Supporting Fact	Claimants' Response
	<p>Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Significantly, the bank account and entity identified in this fact are not alleged to have been used in connection with the acquisition of the named Defendant Assets the government seeks to forfeit.</p>
<p>77. In 2005, Christine Nguyen, Nagler's assistant, filed a false application with the Internal Revenue Service (IRS) to obtain a tax identification number (TIN) for Sweet Pink, Inc. In so doing, she identified herself as the company's principal officer, general partner, grantor, owner, or trustor.</p>	<p><u>Immaterial.</u></p> <p>This allegation does not relate to Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 1 at 47.</p>	<p>Further, this alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had</p>

¹²⁵ *See* Manzanares Decl., ¶ 67.

Government's Alleged Supporting Fact	Claimants' Response
	probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
10 78. Indeed, contrary to the false 11 representations on the IRS application, 12 when faced with a Congressional 13 subpoena, Nagler explained in written 14 responses provided to the staff of the 15 Senate Permanent Subcommittee on Investigations (PSI), that Nguema—not 16 Nguyen—was Sweet Pink's "sole owner."	<p data-bbox="943 783 1139 825"><u>Immaterial.</u></p> <p data-bbox="943 878 1540 1085">This allegation does not relate to conduct by Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets.</p> <p data-bbox="943 1142 1540 1727">Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>

27 ¹²⁶ See Manzanares Decl., ¶ 67.
28

Government's Alleged Supporting Fact	Claimants' Response
<p>1 79. Nguema formed Sweetwater 2 Management, Inc., in 2006 and used it to 3 open three bank accounts at California 4 National Bank in 2006. Sweetwater 5 Management, Inc. was incorporated in 6 California and listed Nagler as its 7 registered agent. Sweetwater Management 8 did not engage in any economic or 9 commercial activity. Its only function was 10 to conceal Nguema's association with this 11 account from an American financial 12 institution. This shell company was used 13 to hire personnel to care for Sweetwater's 14 maintenance and upkeep and to open an 15 account, whose funds would be used for 16 the maintenance and upkeep of 17 Sweetwater.</p>	<p>Disputed But Immaterial.</p> <p>Claimants do not dispute that the government possessed evidence at the time it instituted this action that this entity was incorporated in California and listed Nagler as its registered agent, but the cited evidence does not support the alleged fact, which is a legal conclusion and an improper characterization of the evidence.</p> <p>Further, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
<p>18</p> <p>Government's Evidentiary Support:</p> <p>19 Manzanares Decl., Ex. 2¹²⁷ at SENATE- 20 PSI-124644-124648; Ex. 42¹²⁸ at 21 DOJ_223; Ex. 43¹²⁹ at DOJ_215; Ex. 62¹³⁰ 22 at Senate-PSI-120252-120253.</p> <p>23</p>	<p>24</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>

25 ¹²⁷ See Manzanares Decl., ¶ 4.
26 ¹²⁸ See Manzanares Decl., ¶ 47.
27 ¹²⁹ See Manzanares Decl., ¶ 48.
28 ¹³⁰ See Manzanares Decl., ¶ 67.

Government's Alleged Supporting Fact	Claimants' Response
	Significantly, the bank account and entity identified in this fact are not alleged to have been used in connection with the acquisition of the named Defendant Assets the government seeks to forfeit.
80. On or about May 23, 2006, Melinda DeHaven, Nguema's personal assistant, filed a false TIN application with the IRS for Sweetwater Management, Inc., claiming that she was the company's principal officer, general partner, grantor, owner, or trustor.	<p>Immaterial.</p> <p>This allegation does not relate to Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets.</p>
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 1 at 47</p>	<p>Further, this alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>1 Unnumbered Fact.¹³¹ In response to a 2 Congressional subpoena, Nagler 3 explained in written responses provided to 4 the PSI staff, that Nguema—not 5 DeHaven—served as the corporation’s 6 “sole director, President, Secretary and 7 Chief Financial Officer.” The funds wired 8 to this shell company’s account at 9 California National Bank were used for the maintenance and upkeep of Sweetwater.</p>	<p>1 <u>Immaterial.</u> 2 This allegation does not relate to 3 conduct by Claimant, nor does it allege 4 any conduct by Claimant constituting 5 specified unlawful activity giving rise 6 to forfeiture of the defendant assets. 7 Further, Claimant’s spending habits are 8 irrelevant to a determination of 9 probable cause to forfeit the Defendant Assets.</p>
<p>10 <u>Government's Evidentiary Support:</u> 11 Manzanares Decl., Ex. 62¹³² at Senate- 12 PSI-120252-120253</p>	<p>13 Moreover, neither this alleged fact, nor 14 the evidence cited, support the 15 government’s burden to show it had 16 probable cause to believe the specific 17 Defendant Assets were forfeitable as 18 proceeds of, or property involved in, 19 the specified unlawful activity – 20 violations of foreign law – giving rise 21 to forfeiture under the statute invoked, 22 nor that Claimant engaged in specified 23 unlawful activity in the first instance 24 that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>25 Significantly, the bank account and 26 entity referenced in this fact are not 27 alleged to have been used in connection 28 with the acquisition of the named Defendant Assets the government seeks</p>

26 ¹³¹ This alleged fact was not numbered in the government’s statement of facts.
27 ¹³² See Manzanares Decl., ¶ 67.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
	to forfeit.
81. Between 2006 and 2008, Nguema formed and used Unlimited Horizon, Inc. to open bank accounts. Unlimited Horizon is incorporated in California and lists Berger as its registered agent. Unlimited Horizon did not engage in any economic or commercial activity. Its only function was to conceal Nguema's association with this account from American financial institutions. It also served as a receptacle for Nguema and Michael Berger to funnel money through layered transactions.	<p><u>Disputed But Immaterial.</u></p> <p>Claimants do not dispute that the government possessed evidence at the time it instituted this action that this entity was incorporated in California and listed Berger as its registered agent, but the cited evidence does not support the alleged fact, which is a legal conclusion and an improper characterization of the evidence.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 2¹³³ at SENATE-PSI-124616; Ex. 2 at SENATE-PSI-124621-124624; Ex. 42¹³⁴ at DOJ_223; Ex. 43¹³⁵ at DOJ_213-214; Ex. 44¹³⁶ at DOJ_253-256</p>	<p>Moreover, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p> <p>Further, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could</p>

¹³³ See Manzanares Decl., ¶ 4.

¹³⁴ See Manzanares Decl., ¶ 47.

¹³⁵ See Manzanares Decl., ¶ 48.

¹³⁶ See Manzanares Decl., ¶ 49.

Government's Alleged Supporting Fact	Claimants' Response
	<p>be derived.</p> <p>Significantly, the bank account and entity referenced in this fact are not alleged to have been used in connection with the acquisition of the named Defendant Assets the government seeks to forfeit.</p>
<p>82. Unlimited Horizon's Commercial Capital Bank account received the following three wires from EG: (i) a wire for \$19,946.25 from Somagui on or about February 16, 2006; (ii) a wire for \$49,945 from Somagui on or about March 23, 2006; and (iii) a wire for \$39,944.81 from SOCAGE on or about June 16, 2006.</p>	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p>
<p>14</p> <p><u>Government's Evidentiary Support:</u></p> <p>15</p> <p>16 Manzanares Decl., Ex. 1 at 41-42</p>	<p>Moreover, Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
	<p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>83. Between November 24, 2006 and June 6, 2007, Unlimited Horizon's UBOC</p>	<p><u>Immaterial.</u></p>

Government's Alleged Supporting Fact	Claimants' Response
<p>1 account was the ultimate destination of 2 eight wires from Nguema, which were 3 funneled through accounts controlled by 4 Berger at UBOC and Somagui at CCEI 5 Bank in EG, amounting cumulatively to 6 approximately \$1,599,419</p>	<p>Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
<p>7 Government's Evidentiary Support:</p> <p>8 Manzanares Decl., Ex. 2¹³⁷ at SENATE- 9 PSI-124619-124620; Ex. 2 at SENATE- 10 PSI-124621-124624; Ex. 43¹³⁸ at 11 DOJ_213; Ex. 44¹³⁹ at DOJ_253</p>	<p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>16 84. A special agent of U.S. Customs 17 and Immigration (ICE) analyzed 18 documents from UBOC and concluded 19 that, "Analysis of the records provided by 20 UBOC indicates that the UBOC accounts 21 held by Michael Berger and [UH], have 22 the appearance of being opened and 23 utilized for the transfer, concealment, 24 layering, integration and ultimate use of 25 [Nguema's] funds from [EG]."</p>	<p>Undisputed But Immaterial.</p> <p>Claimants do not dispute that the government possessed the cited document at the time it instituted this action that the agent-author made the statement quoted in Fact No. 84, although the government does not cite or attach the actual evidentiary record allegedly analyzed from which the conclusions are drawn.</p>

26 ¹³⁷ See Manzanares Decl., ¶ 4.

27 ¹³⁸ See Manzanares Decl., ¶ 48.

28 ¹³⁹ See Manzanares Decl., ¶ 49.

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 44¹⁴⁰ at 253</p>	<p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>85. Between July 27, 2007, and November 6, 2007, Nguema funneled over \$1 million from EG through Berger's client trust account at BOA to Unlimited Horizon's account at Citibank. These funds were used for the maintenance and upkeep of Sweetwater.</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 1 at 41-42; Ex. 2¹⁴¹ at SENATE-PSI-124635-124638; Ex. 45¹⁴² at DOJ_287-288; Ex. 46¹⁴³ at DOJ_292-294</p>	<p>Immaterial.</p> <p>Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified</p>

¹⁴⁰ See Manzanares Decl., ¶ 49.

¹⁴¹ See Manzanares Decl., ¶ 4.

¹⁴² See Manzanares Decl., ¶ 50.

¹⁴³ See Manzanares Decl., ¶ 51.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
	unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
86. In opening a bank account for Unlimited Horizon at Citibank in 2007, Berger claimed falsely to the bank that there were no “signer/owners (owning 25% or more)” who were not U.S. Citizens.	<u>Immaterial.</u> This allegation does not relate to Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets. <u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 2 ¹⁴⁴ at SENATE-PSI-124988
	Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived. Significantly, the bank account and entity referenced in this fact are not alleged to have been used in connection with the acquisition of the named Defendant Assets the government seeks to forfeit.

¹⁴⁴ See Manzanares Decl., ¶ 4.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>87. Similarly, in opening this Citibank account, Berger also misled the bank into believing that the account was not owned by a “Senior Public Figure (SPF)” or a “close associate/family member of an SPF”</p>	<p><u>Immaterial.</u></p> <p>This allegation does not relate to Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>8 Manzanares Decl., Ex. 2¹⁴⁵ at SENATE-9 PSI-124988</p>	<p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Significantly, the bank account and entity referenced in this fact are not alleged to have been used in connection with the acquisition of the named Defendant Assets the government seeks to forfeit.</p>

NGUEMA'S DECEPTIVE USE OF SHELL COMPANIES AND NOMINEES TO ACQUIRE AND MAINTAIN SWEETWATER

88. Nguema used a shell company called Sweetwater Malibu LLC (the LLC)

Undisputed But Immaterial.

27 ¹⁴⁵ See Manzanares Decl., ¶ 4.
28

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>1 to acquire title to Sweetwater in 2006.</p> <p>3</p> <p>4 <u>Government's Evidentiary Support:</u></p> <p>5 Manzanares Decl., Ex. 2¹⁴⁶ at SENATE- 6 PSI-124642-124644; Ex. 62¹⁴⁷ at Senate- 7 PSI-120252</p> <p>8 Graf Decl., Ex. 16¹⁴⁸ at DOJ_1063</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p>	<p>1 The fact Claimant took title in the name 3 of an LLC is a “commonplace financial 4 arrangement.” <u>See</u> ECF Doc. No. 47 at 6 6.</p> <p>7 Neither this alleged fact, nor the 8 evidence cited, support the 9 government’s burden to show it had 10 probable cause to believe the specific 11 Defendant Assets were forfeitable as 12 proceeds of, or property involved in, 13 the specified unlawful activity – 14 violations of foreign law – giving rise 15 to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>16 89. In obtaining a TIN for the LLC, 17 Christine Nguyen, an employee of George 18 Nagler, falsely identified herself to IRS as 19 the LLC’s principal officer, general partner, grantor, owner, or trustor.</p> <p>20 <u>Government's Evidentiary Support:</u></p> <p>21 Manzanares Decl., Ex. 37¹⁴⁹ , Box 7a, at 22 Senate-PSI-94082</p> <p>23</p> <p>24</p>	<p>25 <u>Immaterial.</u></p> <p>26 This allegation does not relate to 27 conduct by Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets.</p> <p>28 Moreover, neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific</p>

25 ¹⁴⁶ *See* Manzanares Decl., ¶ 4.

26 ¹⁴⁷ *See* Manzanares Decl., ¶ 67.

27 ¹⁴⁸ *See* Graf Decl., ¶ 22.

28 ¹⁴⁹ *See* Manzanares Decl., ¶ 42.

Government's Alleged Supporting Fact	Claimants' Response
	Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<p>90. In addition, Nguyen claimed falsely to the IRS that the LLC was a single member LLC and that she—rather than Nguema—was its sole member. The IRS confirmed to Nguyen in a letter addressed to her as:</p> <p>14 SWEETWATER MALIBU LLC 15 CHRISTINE NGUYEN SOLE MBR</p> <p>16 Government's Evidentiary Support:</p> <p>17 Manzanares Decl., Ex. 36¹⁵⁰ at Senate- 18 PSI-85847</p>	<p>9 Immaterial.</p> <p>This allegation does not relate to conduct by Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
91. The LLC's articles of organization,	25 Undisputed But Immaterial.

27 ¹⁵⁰ See Manzanares Decl., ¶ 41.
28

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>which were filed with the California Secretary of State on February 8, 2006, make no reference to Nguema anywhere in the document. Instead, Nagler is listed as the company's initial agent for service of process and an unrelated nominee signed the document as the company's purported "organizer."</p>	<p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 2¹⁵¹ at Senate-PSI-124643; Ex. 34¹⁵² at Senate-PSI-85865</p>	<p>Further, the government's citation to the document is incomplete. The document also states that after the filing of the articles, the Sweetwater Malibu, LLC operating agreement and the Statement of Information filed with the State of California identified Nguema as the sole member and manager of the limited liability corporation. <u>See</u> Ex. at Senate-PSI-00124643-44.</p>
<p>92. Although the LLC was required under California law to file a Statement of Information disclosing publicly the name and address of its manager, the type of business it engages in, and the name and address of its chief executive officer, by May 7, 2006, no such statement was filed. Sweetwater Malibu did not disclose such</p>	<p><u>Undisputed But Immaterial.</u></p> <p>Claimants do not dispute that the government had evidence at the time it instituted the action that Claimants caused a Statement of Information to be filed on or around September 25, 2006, which identified Nguema as the sole</p>

26
27¹⁵¹ *See* Manzanares Decl., ¶ 4.
28¹⁵² *See* Manzanares Decl., ¶ 39.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
information until September 25, 2006, after the transaction to purchase Sweetwater.	manager of the LLC, and that the Statement of Information was not required to be filed until after the date of close of escrow on the Defendant Real Property.
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 2¹⁵³ at SENATE-PSI-124643-124644</p>	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
93. Nguema required his realtor Neal Baddin to enter into a confidentiality agreement, whereby Baddin was barred from discussing or disclosing Nguema's identity or details relating to the Sweetwater transaction to any third party.	<p><u>Undisputed But Immaterial.</u></p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance</p>

¹⁵³ See Manzanares Decl., ¶ 4.

¹⁵⁴ See Manzanares Decl., ¶ 4.

Government's Alleged Supporting Fact	Claimants' Response
	that in fact generated criminal proceeds from which the Defendant Assets could be derived.
94. In or around April 3, 2006, George Nagler, recommended that Nguema ask that the title company draft the deed so as to hide Nguema's connection with the transaction. Nagler advised Nguema to instruct the title company to "show [Nagler's] office address so that there is no tie in with [Nguema's current residential] address." Nagler reminded Nguema that, "The deed is a public document. The other closing documents should [also] go to my address."	<p><u>Undisputed But Immaterial.</u></p> <p>The fact Claimant took title in the name of an LLC is a "commonplace financial arrangement." <u>See</u> ECF Doc. No. 47 at 6.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 61¹⁵⁵ at Senate-PSI-100211</p>	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p> <p>The fact Claimant took title in the name</p>

27 ¹⁵⁵ *See* Manzanares Decl., ¶ 66.
28

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 1 at 10</p>	<p>of an LLC is a “commonplace financial arrangement.” See ECF Doc. No. 47 at 6.</p> <p>Neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p><u>NGUEMA'S DECEPTIVE USE OF ALIAS AND NOMINEES TO ACQUIRE MICHAEL JACKSON MEMORABILIA</u></p>	
<p>96. In August 2010, Nguema used an intermediary to register and bid in a live auction of celebrity memorabilia (called the “Legends” auction), including various items of Michael Jackson memorabilia, taking place on October 9, 2010, in Macau, China (October 8, 2010, in California). The intermediary advised the auction house by email to “Please make sure that [Nguema’s] name does not appear anywhere, he should be invisible,” and to “please make sure that where a name needs to be, my name is there. This is very important.”</p> <p>Government's Evidentiary Support:</p>	<p><u>Undisputed that the government possessed the cited documents, but Immaterial.</u></p> <p>Claimant’s spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p> <p>Neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise</p>

Government's Alleged Supporting Fact	Claimants' Response
Manzanares Decl., Ex. 38 ¹⁵⁶ at DOJ_3584; Ex. 64 ¹⁵⁷ at DOJ_3534	to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
97. At the “Legends” auction, the intermediary bid on various auction items by telephone from Los Angeles, for Nguema, and was the winning bidder on numerous items of Michael Jackson memorabilia. The auction house’s invoice lists “Amadeo Oluy,” Nguema’s alias, as the purchase. The invoice was for \$1,398,062.50 in purchases.	<p><u>Disputed But Immaterial.</u></p> <p>Undisputed that the government possessed the cited document, but disputed to the extent the cited document does not support the alleged fact that “Amadeo Oluy” is Claimant’s alias.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 40¹⁵⁸ at DOJ_6350</p>	<p>Claimant’s spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p> <p>Neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds</p>

26 ¹⁵⁶ See Manzanares Decl., ¶ 43.

27 ¹⁵⁷ See Manzanares Decl., ¶ 69.

28 ¹⁵⁸ See Manzanares Decl., ¶ 45.

Government's Alleged Supporting Fact	Claimants' Response
	from which the Defendant Assets could be derived.
98. Indeed, one of Nguema's assistants instructed the auction house to indicate that the purchases to be billed using Nguema's alias, "Amadeo Oluy, Malabo, Guinea Equatorial."	<p><u>Disputed But Immaterial.</u></p> <p>Undisputed that the government possessed the cited document, but disputed to the extent the cited document does not support the alleged fact that "Amadeo Oluy" is Claimant's alias.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 63¹⁵⁹ at DOJ_3616-3617; Ex. 65¹⁶⁰ at DOJ_3843</p>	<p>Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
99. In an email to Nguema's assistant, an employee of the auction house	<u>Undisputed But Immaterial.</u>

¹⁵⁹ See Manzanares Decl., ¶ 68.

¹⁶⁰ See Manzanares Decl., ¶ 70.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>1 confirmed that, "I'm trying to straighten 2 out my 'Wanda' story." Wanda is the 3 name of Nguema's employee, who he 4 used as an intermediary to bid at the 5 auction. The auction house employee 6 confirmed specifically,</p> <p>7 address to be printed on invoices:</p> <p>8 Amadeo Oluy 9 Malabo 10 Guinea Equatorial</p> <p>11 Similarly, On August 19, 2010, in 12 response to an email from Nguema's 13 assistant, an auction house employee e- 14 mailed his colleague, stating: "Please 15 make sure that his name Teodoro Nguema Obiang dos not appear anywhere on our bidding or invoice/receipt process."</p>	<p>Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>16 <u>Government's Evidentiary Support:</u></p> <p>17</p> <p>18 Manzanares Decl., Ex. 65¹⁶¹ at 19 DOJ_3843; Ex. 64¹⁶² at DOJ_3524</p>	
<p>20 100. In or around December 2010, 21 Nguema used his personal assistant, 22 Wanda Kelly, as an intermediary to attend 23 and bid at an auction of celebrity memorabilia in Beverly Hills, California. 24 Kelly successfully bid on several of the Jackson Memorabilia, listed on SAC Attachment A-1, including the white</p>	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p>

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27 ¹⁶¹ See Manzanares Decl., ¶ 70.
28 ¹⁶² See Manzanares Decl., ¶ 69.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
1 crystal-covered "Bad Tour" glove. 2 3 4	Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.
<u>Government's Evidentiary Support:</u> 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
101. Again, the auction house listed Amadeo Oluy, rather than Nguema, as the purchaser of the Jackson Memorabilia. <u>Government's Evidentiary Support:</u> 21 22 23 24 25 26 27 28	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p>
Manzanares Decl., Ex. 1 at 11-12	<p>Claimant's spending habits are irrelevant to a determination of probable cause to forfeit the Defendant Assets.</p>
	<p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as</p>

Government's Alleged Supporting Fact	Claimants' Response
	proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<u>NGUEMA'S INABILITY TO EXPLAIN THE SOURCES OF HIS WEALTH</u>	
104. ¹⁶³ In 2004, City National Bank 11 (CNB) in California requested Nguema 12 identify the source of the funds that were 13 held in his closed CNB account in 14 California. Nguema provided no details 15 other than to state that they were from one 16 of two EG companies he owned— 17 Somagui or Grupo Sofona (Sofona). Even 18 when CNB refused to provide Nguema 19 with \$700,000 his funds and Nguema sued 20 in California Superior Court, Nguema was 21 still not able to provide any details or any 22 financial data relating to his purported 23 commercial activities and the source of 24 his wealth.	<u>Immaterial.</u> The alleged facts do not provide probable cause to believe that any of these funds were the proceeds of foreign corruption, which is the only specified unlawful activity that the government pleaded when it filed the original complaint. Further, as the government is well aware, but nevertheless has omitted telling the court, Claimant successfully obtained a judgment against CNB for the full amount of the funds that it wrongfully withheld. <u>See</u> Supp. Wheeler Decl. Ex. 3, ECF Doc No. 95, at 21-22.
<u>Government's Evidentiary Support:</u> 21 Manzanares Decl., Ex. 2 ¹⁶⁴ at SENATE- 22 PSI-124653-124654; Ex. 56 ¹⁶⁵ at 23 CNB4068	

26 ¹⁶³ The government's fact numbering in its statement of facts allegedly in
27 support of probable cause skipped and omitted numbers 102 and 103.

28 ¹⁶⁴ *See* Manzanares Decl., ¶ 4.

Government's Alleged Supporting Fact	Claimants' Response
105. Two years later in 2006—the same 2 year that Nguema acquired Sweetwater— 3 McAfee and Taft (MT), an Oklahoma- 4 based law firm and escrow agent, 5 repeatedly asked Nguema to provide 6 details as to the source of his income in 7 connection with his attempt to purchase a 8 Gulfstream aircraft for \$38.5 million. For 9 instance, on March 19, 2006, MT asked 10 Nguema's lawyer Eric Duret to "identify 11 [] the source of funds" for the 12 transaction."	<p><u>Immaterial.</u></p> <p>This allegation does not relate to any Defendant Assets the government seeks to forfeit in this action. Nor does it support probable cause that Claimant engaged in any conduct constituting specified unlawful activity giving rise to forfeiture.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>12 Manzanares Decl., Ex. 2¹⁶⁶ at SENATE- 13 PSI-125028</p>	<p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
19 106. After Nguema failed to identify the 20 source of the funds as requested, 21 Nguema's representatives were advised 22 by an MT employee on March 30, 2006, 23 "We are approaching the end of another 24 week, and nothing has been done by you 25 to enable compliance with the Patriot Act. I have sent you several emails on this matter and have not even had the courtesy	<p><u>Immaterial.</u></p> <p>This alleged fact does not relate to any Defendant Assets the government seeks to forfeit in this action. Nor does it support probable cause that Claimant engaged in any conduct constituting specified unlawful activity giving rise to forfeiture.</p>

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27 ¹⁶⁵ See Manzanares Decl., ¶ 56.
28 ¹⁶⁶ See Manzanares Decl., ¶ 4.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
1 of a reply.” 2 3 Government's Evidentiary Support: 4 5 Manzanares Decl., Ex. 2 ¹⁶⁷ at SENATE- 6 PSI-125033 7 8 9 10 11 12	to forfeiture. Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
13 14 107. After Nguema failed yet again to identify the source of his funds as requested by MT, another MT lawyer advised Nguema's representatives on April 7, 2006, “I just want to make sure everyone is on the same page and aware that for us to continue to hold funds I must be provided with the Patriot Act due diligence by Monday Morning” 15 16 17 18 19 20 Government's Evidentiary Support: 21 22 Manzanares Decl., Ex. 2 ¹⁶⁸ at SENATE- 23 PSI-125030 24 25	Immaterial. This alleged fact does not relate to any Defendant Assets the government seeks to forfeit in this action. Nor does it support probable cause that Claimant engaged in any conduct constituting specified unlawful activity giving rise to forfeiture. Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity –

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27 ¹⁶⁷ See Manzanares Decl., ¶ 4.
28 ¹⁶⁸ See Manzanares Decl., ¶ 4.

Government's Alleged Supporting Fact	Claimants' Response
	violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
108. Because of Nguema's inability to identify the source of his funds, MT ultimately declined to participate in the transaction and returned all of his funds. Nguema had to utilize another escrow company's United Kingdom account in order to avoid responding to these types of inquiries in connection with the purchase of his \$38.5 million Gulfstream jet.	<u>Disputed But Immaterial.</u> This alleged fact is simply a quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
<u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 1 at 21	This alleged fact does not relate to any Defendant Assets the government seeks to forfeit in this action. Nor does it support probable cause that Claimant engaged in any conduct constituting specified unlawful activity giving rise to forfeiture. Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.

Government's Alleged Supporting Fact	Claimants' Response
109. Three years later in 2009, U.S. 2 Senate investigators also contacted 3 Nguema to obtain details as to the source 4 of his income and wealth in connection 5 with their 2010 report on foreign 6 corruption. Despite being promised by 7 Nguema's attorney that this information 8 would be provided, the PSI staff received no such information.	Immaterial. This alleged fact does not relate to any Defendant Assets the government seeks to forfeit in this action. Nor does it support probable cause that Claimant engaged in any conduct constituting specified unlawful activity giving rise to forfeiture.
Government's Evidentiary Support: 10 Manzanares Decl., Ex. 2 ¹⁶⁹ at SENATE- 11 PSI-124609; Ex. 1 at 21 12 13 14 15 16 17 18 19 20 21 22 23	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived. Further, this alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. The documentary evidence does not support the alleged fact.
24 110. Indeed, in light of the fact that at 25 the time the PSI's 2010 report was 26 published, the PSI continued to state that	Immaterial. Claimants do not dispute that the

27 28
169 *See* Manzanares Decl., ¶ 4.
04579.23529/5425050.2

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
1 2 Nguema's funds "should be viewed as 3 suspect" and that Nguema's family "have 4 long been suspected of misappropriating 5 [EG's] oil and timber wealth for personal 6 gain," these statements suggest strongly 7 that Nguema provided insufficient 8 information (if any) to the PSI to 9 substantiate the source of his wealth.	government had the cited document at the time it instituted the action or that the document includes the quoted conclusions in the alleged fact, but the statements in this alleged fact are conclusions of opinion and not facts.
<u>Government's Evidentiary Support:</u> 10 Manzanares Decl., Ex. 1 at 21; Ex. 2 ¹⁷⁰ at 11 SENATE-PSI-124609, 124614 12 13 14 15 16	
17 18 <u>NGUEMA'S INCONSISTENT RESPONSES TO INQUIRIES REGARDING</u> <u>THE SOURCES OF HIS WEALTH</u> 19 20 21 22 23 24 25 26 27 28	<u>Immaterial.</u> This allegation does not relate to conduct by Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets. Neither this alleged fact, nor the evidence cited, support the

¹⁷⁰ See Manzanares Decl., ¶ 4.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 33¹⁷¹ at Senate-PSI-110285, 110287</p>	<p>government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
	<p>Significantly, the bank account referenced in the alleged fact is not alleged to have been used in the acquisition of, or otherwise connected to, the specific Defendant Assets the government seeks to forfeit.</p>
	<p>Moreover, this alleged fact does not support the conclusion that Claimant has provided “inconsistent responses to inquiries regarding the sources of his wealth.” <u>See</u> Reply Memo at 18; Claimants’ Supplemental Brief at 13-14; TR at 13-14.</p>
<p>112. Similarly, in response to the question “Ha[s] [Nguema] ever performed important public functions in a foreign state (PEP)?” Nguema’s representative answered “No”</p>	<p><u>Immaterial.</u></p> <p>This allegation does not relate to conduct by Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets.</p>

¹⁷¹ See Manzanares Decl., ¶ 38.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 33¹⁷² at Senate-PSI-110285</p>	<p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Significantly, the bank account referenced in the alleged fact is not alleged to have been used in the acquisition of, or otherwise connected to, the specific Defendant Assets the government seeks to forfeit.</p> <p>Moreover, this alleged fact does not support the conclusion that Claimant has provided “inconsistent responses to inquiries regarding the sources of his wealth.” <u>See</u> Reply Memo at 18; Claimants’ Supplemental Brief at 13-14; TR at 13-14.</p>
113. In addition, in response to the question “Are any individuals above closely associated with person(s) who perform important public functions for a	<p><u>Immaterial.</u></p> <p>This allegation does not relate to conduct by Claimant, nor does it allege any conduct by Claimant constituting</p>

172 *See* Manzanares Decl., ¶ 38.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
1 foreign country (PEP)?” 2 3 Again, Nguema’s representative replied 4 “No” 5 6 <u>Government's Evidentiary Support:</u> 7 8 Manzanares Decl., Ex. 33 ¹⁷³ at Senate- PSI-110285 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	specified unlawful activity giving rise to forfeiture of the defendant assets.
	Neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
	Significantly, the bank account referenced in the alleged fact is not alleged to have been used in the acquisition of, or otherwise connected to, the specific Defendant Assets the government seeks to forfeit. Moreover, this alleged fact does not support the conclusion that Claimant has provided “inconsistent responses to inquiries regarding the sources of his wealth.” <u>See</u> Reply Memo at 18; Claimants’ Supplemental Brief at 13-14; TR at 13-14.
114. Two years later in 2009, Nguema told officials at the United States Embassy	<u>Disputed But Immaterial.</u>

¹⁷³ *See* Manzanares Decl., ¶ 38.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
1 (Embassy) in EG that other than his 2 income as a public official, the source of 3 his wealth was commercial logging 4 operations performed by a Malaysian 5 company in EG. In addition, Nguema 6 stated falsely that his Sweetwater property 7 was worth in 2009 "twice what [he] paid 8 for it" in 2006. Indeed, no evidence exists 9 that the Sweetwater property was ever valued at anything close to \$60 million— let alone in 2009.	This alleged fact does not support the conclusion that Claimant has provided "inconsistent responses to inquiries regarding the sources of his wealth." Rather, the government's evidence shows that Claimant, on separate occasions, denied that he engaged in corruption and reiterated the legitimacy of his business interests. In neither instance was Claimant asked for an exhaustive list as to the sources of his wealth. <u>See</u> Reply Memo at 18; Claimants' Supplemental Brief at 13-14; TR at 13-14.
<u>Government's Evidentiary Support:</u> 10 Graf Decl., Ex. 15 ¹⁷⁴ at DOJ_586 11 12 Manzanares Decl., Ex. 1, at 21 13 14 15 16 17 18 19 20 21	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
22 115. Two years after that in 2011, 23 Nguema changed his explanation yet 24 again, claiming to Ambassador Alberto 25 Fernandez, the United States' then Ambassador to EG, that his personal	<u>Disputed But Immaterial.</u> 26 27 This alleged fact does not support the conclusion that Claimant has provided "inconsistent responses to inquiries

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27 ¹⁷⁴ *See* Graf Decl., ¶ 21.
26

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p>wealth was derived from government infrastructure contracts.</p> <p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 14¹⁷⁵ at DOJ_590-591</p>	<p>regarding the sources of his wealth.” Rather, the government’s evidence shows that Claimant, on separate occasions, denied that he engaged in corruption and reiterated the legitimacy of his business interests. In neither instance was Claimant asked for an exhaustive list as to the sources of his wealth. <u>See</u> Reply Memo at 18; Claimants’ Supplemental Brief at 13-14; TR at 13-14.</p>
	<p>Neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p><u>NGUEMA'S POSSESSION AND TRANSPORT OF MILLIONS OF DOLLARS IN BULK CASH</u></p>	
<p>116. Several former employees of Nguema reported that Nguema and/or his employees carried a bag “stuffed with stacks of fresh \$100 bills” when he travelled in and out of the United States.</p>	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government’s own interrogatory</p>

¹⁷⁵ See Graf Decl., ¶ 20.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 55¹⁷⁶ at DOJ_179; Ex. 1 at 97-98</p>	<p>responses. See n.53. The documentary evidence cited by the government does not contain the quotation referenced.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Significantly, as the Court has already recognized, the government has not shown that large quantities of cash is “probative of large-scale political corruption.” TR at 14. Accordingly, the government has offered no support for the proposition that large quantities of cash is probative of probable cause to believe these Defendant Assets are subject to forfeiture.</p>
<p>117. A confidential source (CS 1), who was a former employee of Nguema in California, reported that two EG nationals employed by Nguema— Emmanuel Asamoah and Charles Annan—were</p>	<p><u>Undisputed that the government possessed the cited document.</u></p>

¹⁷⁶ See Manzanares Decl., ¶ 60.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
1 responsible for carrying a Louis Vitton 2 briefcase. This brief case, according to CS 3 1, is brought into the United States with 4 Nguema and is filled with approximately 5 \$500,000 to pay for Nguema's bills and 6 personal expenses. 7 <u>Government's Evidentiary Support:</u> 8 9 Manzanares Decl., Ex. 1 at 97-98; Ex. 55 ¹⁷⁷ at DOJ_179	<u>Immaterial.</u> Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Significantly, as the Court has already recognized, the government has not shown that large quantities of cash is “probative of large-scale political corruption.” TR at 14. Accordingly, the government has offered no support for the proposition that large quantities of cash is probative of probable cause to believe these Defendant Assets are subject to forfeiture.
118. Another confidential source (CS 2), who was also a former employee of Nguema in California, recalled that two EG nationals Joseph Otbo and Moses Hilorsi were responsible for carrying a suitcase for Nguema that contained approximately \$1 million in cash.	<u>Disputed But Immaterial.</u> This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting

¹⁷⁷ *See* Manzanares Decl., ¶ 60.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
1 2 Nguema does not report this currency 3 when he enters the United States, as is 4 required by 31 U.S.C. § 5316. 5 6	documentation is cited. 7 8 Further, “the Government may not 9 claim that currency reporting violations 10 are SUAs that gives rise to forfeiture.” 11 TR at 18 n.12. 12 13
<u>Government's Evidentiary Support:</u> 14 15 Manzanares Decl., Ex. 1 at 97-98 16 17	Moreover, neither this alleged fact, nor 18 the evidence cited, support the 19 government's burden to show it had 20 probable cause to believe the specific 21 Defendant Assets were forfeitable as 22 proceeds of, or property involved in, 23 the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived. 24 25
	Significantly, as the Court has already 26 recognized, the government has not 27 shown that large quantities of cash is 28 “probative of large-scale political corruption.” TR at 14. Accordingly, the government has offered no support for the proposition that large quantities of cash is probative of probable cause to believe these Defendant Assets are subject to forfeiture.
<u>NGUEMA'S CORRUPT RELATIONSHIP WITH EG'S STATE-OWNED OIL COMPANY</u>	
29 30 119. G. E. Petrol (GEP) is EG's state- 31 owned oil company. 32 33	<u>Undisputed But Immaterial.</u> 34 35 Neither this alleged fact, nor the

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 7¹⁷⁸, DOJ_81-82</p>	evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<p>120. Simon Kareri was a Riggs Bank Vice President responsible for the bank's relationship with Nguema, his family and Equatorial Guinea.</p> <p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 8¹⁷⁹, DOJ_53-55</p>	<p>Undisputed But Immaterial.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>23 121. GEP is “run by the First Family” of EG, according to Kareri.</p>	<p>Undisputed that the government possessed the cited document.</p>

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27 ¹⁷⁸ See Graf Decl., ¶ 12.
28 ¹⁷⁹ See Graf Decl., ¶ 13.

<u>1</u> <u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
<p data-bbox="262 276 861 318"><u>2</u> <u>Government's Evidentiary Support:</u></p> <p data-bbox="262 361 714 403">Graf Decl., Ex. 7¹⁸⁰, DOJ_81</p> <p data-bbox="262 445 714 487">5</p> <p data-bbox="262 530 714 572">6</p> <p data-bbox="262 614 714 656">7</p> <p data-bbox="262 699 714 741">8</p> <p data-bbox="262 783 714 825">9</p> <p data-bbox="262 868 714 910">10</p> <p data-bbox="262 952 714 994">11</p> <p data-bbox="262 1036 714 1079">12</p> <p data-bbox="262 1121 714 1163">13</p> <p data-bbox="262 1205 714 1248">14</p> <p data-bbox="262 1290 714 1332">15</p> <p data-bbox="262 1374 714 1417">16</p> <p data-bbox="262 1459 714 1501">17</p> <p data-bbox="262 1543 714 1586">18</p> <p data-bbox="262 1628 714 1670">19</p> <p data-bbox="262 1712 714 1755">20</p> <p data-bbox="262 1797 714 1839">21</p> <p data-bbox="262 1881 714 1924">22</p> <p data-bbox="262 1966 714 2008">23</p> <p data-bbox="262 2050 714 2092">24</p> <p data-bbox="262 2135 714 2112">25</p> <p data-bbox="262 2219 714 2112">26</p> <p data-bbox="262 2304 714 2112">27</p> <p data-bbox="262 2388 714 2112">28</p>	<p data-bbox="943 276 1486 361"><u>2</u> <u>Disputed that this fact is based on reliable evidence.</u></p> <p data-bbox="943 403 1144 445"><u>3</u> <u>Immaterial.</u></p> <p data-bbox="943 487 1530 741">4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p> <p data-bbox="943 487 1530 741">10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p> <p data-bbox="943 783 1486 910">10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p> <p data-bbox="943 952 1547 1227">10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p> <p data-bbox="943 1269 1547 1803">10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p>

¹⁸⁰ See Graf Decl., ¶ 12.

Government's Alleged Supporting Fact	Claimants' Response
	from which the Defendant Assets could be derived.
122. Nguema said to Kareri that he was GEP's " <i>patron</i> ." In Spanish, the word " <i>patron</i> " means "master" or "boss."	Disputed But Immaterial.
Government's Evidentiary Support: Manzanares Decl., Ex. 1 at 74-75	This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
	Claimants do not dispute that the government had the cited report of investigation at the time it instituted this action, nor that document claims that Mr. Kareri " <i>believes</i> " GEP "is run by the First Family."
	However, Mr. Kareri's belief, which the government has failed to corroborate, is not factual evidence.
	Further, the government omits significant facts that raise serious question about the veracity and reliability of Simon Kareri, the subject of the interview described in Graf Decl. Ex. 7. <u>See</u> n.69.
	Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified

Government's Alleged Supporting Fact	Claimants' Response
	unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
123. Even though Nguema “flunked high school and does not know how to do anything,” according to Kareri, Nguema controlled GEP as its “ <i>patron</i> ”.	<u>Undisputed that the government possessed the cited document.</u>
<u>Government's Evidentiary Support:</u>	<u>Disputed that this fact is based on reliable evidence.</u>
Graf Decl., Ex. 7 ¹⁸¹ , DOJ_82	<u>Immaterial.</u>
Manzanares Decl., Ex. 1 at 74-75	Claimants do not dispute that the government had the cited report of investigation at the time it instituted this action, nor that the document indicates that Mr. Kareri may have reported this opinion of Claimant to the interviewing agent.
	However, Mr. Kareri's opinion of Claimant, which the government has failed to corroborate or confirm, is not factual evidence.
	Further, the government omits significant facts that raise serious question about the veracity and reliability of Simon Kareri, the subject of the interview described in Graf Decl. Ex. 7. <u>See</u> n.69.
	Moreover, neither this alleged fact, nor the evidence cited, support the

181 See Graf Decl., ¶ 12.

Government's Alleged Supporting Fact	Claimants' Response
	government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
124. Kareri stated that “the big money from the [foreign] oil companies is being paid to the First Family through joint venture projects in EG” and that corrupt payments were disbursed by GEP to “so-called oil brokers” controlled by Nguema’s family.	<p><u>Undisputed that the government possessed the cited document.</u></p> <p><u>Disputed that this fact is based on reliable evidence.</u></p> <p><u>Immaterial.</u></p> <p>Claimants do not dispute that the government had the cited report of investigation at the time it instituted this action, nor that document claims that Mr. Kareri “<i>believes</i> the big money from oil companies is being paid to the First Family. . . .”</p> <p>However, Mr. Kareri’s beliefs, which the government has failed to corroborate, are not factual evidence.</p> <p>Further, the government omits significant facts that raise serious</p>

27 ¹⁸² See Graf Decl., ¶ 12.
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Government's Alleged Supporting Fact	Claimants' Response
	<p>question about the veracity and reliability of Simon Kareri, the subject of the interview described in Graf Decl. Ex. 7. <u>See</u> n.69.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>125. On one occasion, Kareri recalled that a representative of GEP requested that Riggs divert directly approximately four percent of EG's oil revenue to an account controlled by GEP. Kareri refused.</p> <p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 7¹⁸³ at DOJ_82</p>	<p><u>Undisputed But Immaterial.</u></p> <p>This allegation does not relate to conduct by Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity –</p>

27 ¹⁸³ *See* Graf Decl., ¶ 12.
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Government's Alleged Supporting Fact	Claimants' Response
	<p>violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p> <p>Moreover, the government omits significant facts that raise serious question about the veracity and reliability of Simon Kareri, the subject of the interview described in Graf Decl. Ex. 7. <u>See</u> n.69.</p>
<p>126. Kareri's representations are corroborated by the fact Nguema himself represented to Gulfstream that he possessed both the ability and the intent to misappropriate public funds from the EG treasury relating to oil production. Specifically, he claimed that he could provide an American oil company with a \$40 million "credit memorandum" derived from public funds to acquire a personal asset for himself.</p> <p>Government's Evidentiary Support:</p> <p>Graf Decl., Ex. 5¹⁸⁴ at DOJ_125-126; Ex. 6A¹⁸⁵ at DOJ_130</p>	<p>Disputed But Immaterial.</p> <p>The exhibits cited by the government do not support the allegation that Nguema intended to misappropriate public funds from E.G. <u>See</u> n.54.</p> <p>Nor do the exhibits cited by the government corroborate Mr. Kareri's beliefs and opinions. In fact, the government omits significant facts that raise serious question about the veracity and reliability of Simon Kareri. <u>See</u> n.69.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific</p>

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28¹⁸⁴ *See* Graf Decl., ¶ 7.

¹⁸⁵ *See* Graf Decl., ¶ 9.

Government's Alleged Supporting Fact	Claimants' Response
	Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
127. Likewise, a confidential source (CI 2), who spoke with federal agents and was a former employee of Nguema in Los Angeles in or around 2006, the same year that Nguema acquired Sweetwater, recalled that Nguema told him/her that the source of his wealth was related to EG's oil resources.	<u>Disputed But Immaterial.</u> This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
<u>Government's Evidentiary Support:</u> Manzanares Decl.; Ex. 1 at 76	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
128. CI 2 was an employee of Nguema who worked at Sweetwater. Even though Nguema holds no official position within the EG Government related to the oil industry, CI 2 recalls seeing three "oil	<u>Disputed But Immaterial.</u> This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
officials" meet with Nguema at the Sweetwater Property during the second week of November 2006.	responses. <u>See</u> n.53. No supporting documentation is cited.
<u>Government's Evidentiary Support:</u>	
Manzanares Decl.; Ex. 1 at 76	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<u>EG GOVERNMENT IS INTERNATIONALLY RECOGNIZED AS A KLEPTOCRACY, BENEFITTING NGUEMA'S FAMILY AND ASSOCIATES</u>	
129. Frank Ruddy, a former United States ambassador to EG during the Reagan administration, told the <u>Los Angeles Times</u> that, "[President] Obiang is a thief and he heads a government of thieves."	<u>Disputed But Immaterial.</u> This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
<u>Government's Evidentiary Support:</u>	
Manzanares Decl., Ex. 1 at 97-98	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified

Government's Alleged Supporting Fact	Claimants' Response
	unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
130. Similarly, Ambassador Bennett described Equatorial Guinea as “the world’s finest example of a country privatized by a kleptomaniac without a scintilla of social consciousness.”	Disputed But Immaterial. This alleged fact is simply a verbatim quotation from Exhibit 1, the government’s own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
Government's Evidentiary Support: Manzanares Decl., Ex. 1 at 99-100	Neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
131. The State Department’s annual human rights reports on EG, which are published by the Bureau of Democracy, Human Rights and Labor online at http://www.state.gov/j/drl/rls/hrrpt , has commented repeatedly that public corruption, as well as the use of torture, is widespread within the EG Government.	Disputed But Immaterial. This alleged fact is simply a verbatim quotation from Exhibit 1, the government’s own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
Government's Evidentiary Support:	The government references annual reports purportedly published on the Bureau of Democracy, Human Rights

Government's Alleged Supporting Fact	Claimants' Response
1 2 Manzanares Decl., Ex. 1 at 100 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	and Labor Web site and claim that the Department has “commented” on corruption in E.G. However, the government does not attach or cite a single such report. The government provides the general URL for the Department Web site, but that site includes links to 14 years of reports. As the Court explained in its tentative, such a practice by the government “does not come close to meeting its burden on summary judgment,” as it is “the Government’s job to explain [the evidence] to the Court.” TR at 9. Indeed, as the Court repeatedly stated, “The Court is not required to ‘scour the record’ to analyze any other evidence.” <i>Id.</i> at 9 n.7. Neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
25 26 27 28 132. In 2006, the same year that Nguema acquired the \$30 million Sweetwater Property, the State Department concluded that “All branches of government [in EG] are dominated by President [Obiang] and	Disputed But Immaterial. This alleged fact is simply a verbatim quotation from Exhibit 1, the government’s own interrogatory

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
his inner circle" and that "[o]fficial corruption in all branches of the government remained a serious problem."	responses. <u>See</u> n.53. No supporting documentation is cited.
<u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 1 at 100	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
133. In 2008, the State Department described how anti-corruption laws were not enforced in EG against public officials and that "[EG] officials frequently engaged in corrupt practices with impunity."	<u>Disputed But Immaterial.</u> This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
<u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 1 at 100	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
	be derived.
134. In 2009, the State Department confirmed that “[President Obiang] and members of his inner circle continued to amass huge personal profits from the oil windfall” and that EG public officials continued to “frequently engage[] in corrupt practices with impunity.”	<u>Disputed But Immaterial.</u> This alleged fact is simply a verbatim quotation from Exhibit 1, the government’s own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
<u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 1 at 100	Neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
135. When the World Bank Institute graded corruption on a scale of 0.0 (being the most severe) to 1.0 (being the least corrupt), the World Bank noted that several organizations ranked EG as being amongst the most corrupt states in the world.	<u>Disputed But Immaterial.</u> This alleged fact is simply a verbatim quotation from Exhibit 1, the government’s own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
<u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 1 at 102-103	Neither this alleged fact, nor the evidence cited, support the government’s burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in,

Government's Alleged Supporting Fact	Claimants' Response
	the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
136. The Economist Intelligence Unit scored EG zero points on the World Bank's corruption scale for the years 1996, 1998, 2000, and 2002 through 2011.	Disputed But Immaterial. This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
Government's Evidentiary Support: Manzanares Decl., Ex. 1 at 103	Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
137. The African Development Bank gave EG 0.2 points (on a scale of 0.0 to 1.0) for the years 2005 through 2010. Government's Evidentiary Support:	Disputed But Immaterial. This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
Manzanares Decl., Ex. 1 at 103	<p>documentation is cited.</p> <p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
138. The International Fund for Agricultural Development gave EG 0.2 points for 2004 and 0.4 points for 2010 and 2011 (on a scale of 0.0 to 1.0).	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p>
Manzanares Decl., Ex. 1 at 103	<p>Neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could</p>

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
139. The World Meteorological Organization gave EG 0.13 points for the years 1996, 1998, 2000, 2002, 2003 and 2005; 0.21 points for 2004; and 0.25 points for the years 2006 through 2011 (on a scale of 0.0 to 1.0).	2 be derived.
	<u>Disputed But Immaterial.</u> 3 This alleged fact is simply a verbatim 4 quotation from Exhibit 1, the 5 government's own interrogatory 6 responses. <u>See</u> n.53. No supporting 7 documentation is cited.
<u>Government's Evidentiary Support:</u> 8 Manzanares Decl., Ex. 1 at 103	9 Neither this alleged fact, nor the 10 evidence cited, support the 11 government's burden to show it had 12 probable cause to believe the specific 13 Defendant Assets were forfeitable as 14 proceeds of, or property involved in, 15 the specified unlawful activity – 16 violations of foreign law – giving rise 17 to forfeiture under the statute invoked, 18 nor that Claimant engaged in specified 19 unlawful activity in the first instance 20 that in fact generated criminal proceeds 21 from which the Defendant Assets could 22 be derived.
19 140. The United Nations Special 20 Rapporteur on the Right to Freedom of 21 Opinion and Expression reported to the 22 United Nations General Assembly in 2009 23 that “[t]he scourge of corruption and the 24 overwhelming lack of morality affecting 25 [public] officials” in EG impacted 26 negatively the civil and political liberties 27 of the EG people. <u>Government's Evidentiary Support:</u> 28 Manzanares Decl., Ex. 1 at 103	<u>Disputed But Immaterial.</u> 1 This alleged fact is simply a verbatim 2 quotation from Exhibit 1, the 3 government's own interrogatory 4 responses. <u>See</u> n.53. No supporting 5 documentation is cited. 6 Neither this alleged fact, nor the 7 evidence cited, support the 8 government's burden to show it had 9 probable cause to believe the specific 10 Defendant Assets were forfeitable as 11 proceeds of, or property involved in,

Government's Alleged Supporting Fact	Claimants' Response
	the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
141. Transparency International (TI), an international NGO focusing specifically on corruption, ranked EG as the eighth most corrupt country in the world.	Disputed But Immaterial. This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.

11 **Government's Evidentiary Support:**

12 Manzanares Decl., Ex. 1 at 103

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Further, this factual allegation is based solely on the claims of an NGO that the government has not corroborated. The State Department warned the government on two separate occasions about the unreliability of NGOs. See Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.

Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could

Government's Alleged Supporting Fact	Claimants' Response
	be derived.
142. Human Rights Watch in 2009 2 explained that, "Perhaps the most brazen 3 and troubling examples of corruption [in 4 EG] are repeated instances involving the 5 president's eldest son, [Nguema], whose 6 globetrotting and extravagant lifestyle is 7 filled with purchases of multimillion- 8 dollar houses and exotic sports cars 9 throughout the world."	Disputed But Immaterial. This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
Government's Evidentiary Support:	Further, this factual allegation is based solely on the claims of an NGO that the government has not corroborated. The State Department warned the government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.
10 Manzanares Decl., Ex. 1 at 103-104 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
25 143. Global Witness reported in 2009 26 that "When it comes to profligate public 27 consumption by the Obiang clan, 28 [Nguema] . . . is Exhibit A."	Disputed But Immaterial. This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 1 at 104</p>	<p>responses. <u>See</u> n.53. No supporting documentation is cited.</p> <p>Further, this factual allegation is based solely on the claims of an NGO that the government has not corroborated. The State Department warned the government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>144. The Open Society Institute in 2010 concluded that, “By controlling [EG’s] political, economic, and legal systems—and using that control to enrich themselves—the Nguema/Mongomo group has created a nearly perfect kleptocracy [in EG]. Rarely have so few stolen so much so brazenly.”</p> <p>Government's Evidentiary Support:</p>	<p>Disputed But Immaterial.</p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p> <p>Further, this factual allegation is based solely on the claims of an NGO that the government has not corroborated. The State Department warned the</p>

Government's Alleged Supporting Fact	Claimants' Response
Manzanares Decl., Ex. 1 at 104	<p>government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
145. The International Bar Association in 2003 noted that “serious concerns were raised to [their delegation to EG] about the levels of corruption which is seemingly endemic in all sectors of [EG] society [] particularly with respect to the money from oil revenues.”	<p><u>Disputed But Immaterial.</u></p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p>
<p><u>Government's Evidentiary Support:</u></p> <p>Manzanares Decl., Ex. 1 at 104</p>	<p>Further, this factual allegation is based solely on the claims of an NGO that the government has not corroborated. The State Department warned the government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the</p>

Government's Alleged Supporting Fact	Claimants' Response
	government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
146. Freedom House confirmed that "Equatorial Guinea is considered one of the most corrupt countries in the world and [President] Obiang and members of his inner circle continue to amass huge personal profits from the country's oil windfall."	<u>Disputed But Immaterial.</u> This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
<u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 1 at 104	Further, this factual allegation is based solely on the claims of an NGO that the government has not corroborated. The State Department warned the government on two separate occasions about the unreliability of NGOs. <u>See</u> Claimants' Supplemental Brief at 9-10 and Reply Memorandum at 13. Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked,

Government's Alleged Supporting Fact	Claimants' Response
	nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<u>NGUEMA FAMILY'S CORRUPT USE OF RIGGS NATIONAL BANK</u>	
147. Between 1995 and 2004, the EG 2 Government and Nguema's family, 3 including Nguema, maintained personal 4 bank accounts at Riggs National Bank 5 (Riggs) in Washington, D.C.	<u>Undisputed But Immaterial.</u> 6 7 This alleged fact does not support the 8 government's burden to show it had 9 probable cause to believe the specific 10 Defendant Assets were forfeitable as 11 proceeds of, or property involved in, 12 the specified unlawful activity - 13 violations of foreign law - giving rise to 14 forfeiture under the statute invoked, nor 15 that Claimant engaged in specified 16 unlawful activity in the first instance 17 that in fact generated criminal proceeds 18 from which the Defendant Assets could 19 be derived.
<u>Government's Evidentiary Support:</u> 20 21 Manzanares Decl., Ex. 2 ¹⁸⁶ at Senate-PSI- 22 124607; 124610 23 24 Graf Decl., Ex. 6C ¹⁸⁷ at DOJ_129	<u>Undisputed But Immaterial.</u> 25 26 This alleged fact does not support the 27 government's burden to show it had 28 probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity - violations of foreign law - giving rise to forfeiture under the statute invoked.
148. In 2004, the PSI published its report 1 Money Laundering and Foreign 2 Corruption: Enforcement and 3 Effectiveness of the Patriot Act." In that 4 report, the PSI staff concluded that Riggs 5 "turned a blind eye to evidence [,] 6 suggesting the bank was handling the 7 proceeds of foreign corruption."	<u>Undisputed But Immaterial.</u> 8 9 This alleged fact does not support the 10 government's burden to show it had 11 probable cause to believe the specific 12 Defendant Assets were forfeitable as 13 proceeds of, or property involved in, 14 the specified unlawful activity - 15 violations of foreign law - giving rise to 16 forfeiture under the statute invoked, nor

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27 ¹⁸⁶ See Manzanares Decl., ¶ 4.
28 ¹⁸⁷ See Graf Decl., ¶ 11.

Government's Alleged Supporting Fact	Claimants' Response
Government's Evidentiary Support: Manzanares Decl., Ex. 2 ¹⁸⁸ at Senate-PSI-124610	that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
149. Riggs Bank records show that \$35 million was transferred from EG oil revenue accounts at Riggs to offshore shell companies associated with EG public officials, including President Obiang.	Immaterial. This allegation does not relate to conduct by Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets.
Government's Evidentiary Support: Manzanares Decl., Ex. 2 ¹⁸⁹ at Senate-PSI-124610	Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
150. Riggs Bank records also showed that large amounts of bulk cash were deposited into accounts controlled by President Obiang and Constancia Obiang, Nguema's mother. Between 2000 and	Immaterial. This allegation does not relate to conduct by Claimant, nor does it allege any conduct by Claimant constituting

¹⁸⁸ See Manzanares Decl., ¶ 4.

¹⁸⁹ See Manzanares Decl., ¶ 4.

<u>Government's Alleged Supporting Fact</u>	<u>Claimants' Response</u>
2002, nearly \$13 million in cash deposits 3 were made into these accounts	specified unlawful activity giving rise to forfeiture of the defendant assets.
<u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 2 ¹⁹⁰ at Senate-PSI- 124610	Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
<u>PAYMENTS BY OIL COMPANIES TO NGUEMA'S FAMILY</u>	
151. In approximately 1998 or 1999, 15 Mobil Oil provided a check to Nguema's 16 mother Constancia Obiang for 17 approximately \$200,000 or \$250,000 with 18 the caption "business development."	<u>Disputed But Immaterial.</u> This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
<u>Government's Evidentiary Support:</u> Manzanares Decl., Ex. 1 at 110	Further, this allegation does not relate to Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets. Moreover, neither this alleged fact, nor

27 ¹⁹⁰ See Manzanares Decl., ¶ 4.
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Government's Alleged Supporting Fact	Claimants' Response
	the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
152. In or around 2003, Marathon Oil paid Teodoro Byogo Nsue, Nguema's uncle and EG's ambassador to the United States, in or around \$12,000 per month. These payments were off-the-book payments not documented in EG's public records and books.	<u>Disputed But Immaterial.</u> This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.

17 **Government's Evidentiary Support:**

18 Manzanares Decl., Ex. 1 at 110

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21 Further, this allegation does not relate
22 to Claimant, nor does it allege any
23 conduct by Claimant constituting
24 specified unlawful activity giving rise
25 to forfeiture of the defendant assets.

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28 Moreover, neither this alleged fact, nor
the evidence cited, support the
government's burden to show it had
probable cause to believe the specific
Defendant Assets were forfeitable as
proceeds of, or property involved in,
the specified unlawful activity –
violations of foreign law – giving rise
to forfeiture under the statute invoked,
nor that Claimant engaged in specified
unlawful activity in the first instance

Government's Alleged Supporting Fact	Claimants' Response
	that in fact generated criminal proceeds from which the Defendant Assets could be derived.
153. Exxon Mobil provided free shipping services for EG public officials to ship merchandise, including automobiles, from the United States to EG.	Disputed But Immaterial. This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.
Government's Evidentiary Support: Manzanares Decl., Ex. 1 at 110	Further, this allegation does not allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets. Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
154. After Exxon and Mobil merged, that company's executives met with President Obiang at the Willard Hotel in Washington, D.C. The executives provided and left a briefcase full of money with President Obiang.	Disputed But Immaterial. This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting

Government's Alleged Supporting Fact	Claimants' Response
<p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 1 at 110</p>	<p>documentation is cited.</p> <p>Further, this allegation does not relate to Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets.</p> <p>Moreover, neither this alleged fact, nor the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.</p>
<p>155. American oil companies paid senior EG officials for “consulting” fees. Kareri characterized these payments as “suspicious” and felt that these officials may have tried to conceal these payments by depositing the money in banks other than Riggs.</p> <p>Government's Evidentiary Support:</p> <p>Manzanares Decl., Ex. 1 at 111</p>	<p>Disputed But Immaterial.</p> <p>This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.</p> <p>Further, this allegation does not specifically relate to Claimant, nor does it allege any conduct by Claimant constituting specified unlawful activity giving rise to forfeiture of the defendant assets.</p> <p>Moreover, neither this alleged fact, nor</p>

Government's Alleged Supporting Fact	Claimants' Response
	the evidence cited, support the government's burden to show it had probable cause to believe the specific Defendant Assets were forfeitable as proceeds of, or property involved in, the specified unlawful activity – violations of foreign law – giving rise to forfeiture under the statute invoked, nor that Claimant engaged in specified unlawful activity in the first instance that in fact generated criminal proceeds from which the Defendant Assets could be derived.
156. CMS/Triton and Marathon Oil made cash payments to Constancia Obiang's relatives who were students in the United States. The company also helped these students secure housing in "fancy apartments."	<u>Disputed But Immaterial.</u> This alleged fact is simply a verbatim quotation from Exhibit 1, the government's own interrogatory responses. <u>See</u> n.53. No supporting documentation is cited.

Government's Evidentiary Support:

18 Manzanares Decl., Ex. 1 at 111

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20 Further, this allegation does not relate
21 to Claimant, nor does it allege any
22 conduct by Claimant constituting
23 specified unlawful activity giving rise
24 to forfeiture of the defendant assets.

25 Moreover, neither this alleged fact, nor
26 the evidence cited, support the
27 government's burden to show it had
28 probable cause to believe the specific
Defendant Assets were forfeitable as
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to forfeiture under the statute invoked,
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1 Government's Alleged Supporting Fact	2 Claimants' Response
3	4 that in fact generated criminal proceeds from which the Defendant Assets could be derived.

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8 DATED: July 31, 2013

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10 QUINN EMANUEL URQUHART &
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13 Duane R. Lyons

14 Brian M. Wheeler

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16 Teodoro Nguema Obiang Mangue and
17 Sweetwater Malibu, LLC